



W.P.No.24436 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.24436 of 2022

D.Natrasan

...Petitioner

-Vs-

1. The Principal Secretary
Rural Development
Panchayat Raja Department
Secretariat
Chennai – 600 009

2. The District Collector
Collectorate
Thiruvannamalai District – 606 601

3. The Commissioner
Polur Panchayat
Polur-606 803

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.7886/2022/PaE3 dated 20.06.2022 along with the relevant portion of the G.O.Ms.No.55 issued by the 1st respondent dated 15.06.2006



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pertaining to the monetary benefits and quash the same and direct the 1st and 2nd respondents to give all the monetary benefits from the date of regularisation (08.04.1996) within a stipulated time fixed by this Court.

For Petitioner : Mr.R.Lakshmanan

For Respondents : Mr.S.Silambanan
Additional Advocate General
Assisted by Mr.M.Bindran
Addl. Govt. Pleader for R1 & R2
Mr.S.J.Mohamed Sathik for R3

ORDER

The petitioner herein had originally joined the services of the respondent Department on 08.04.1986. On completion of ten years, his services were regularized with effect from 07.04.1996. Subsequently on 28.02.2019, the petitioner had retired from service on reaching the age of superannuation. When the respondents had denied the monetary benefits, by calculating the petitioner's regularisation of service from the date of original appointment, he had sent a representation to the respondents seeking for monetary benefits from the date of his regularisation. The petitioner's representation came to be rejected through the impugned order stating that the reference made by the petitioner to identical person will not apply to him and it will apply only to the concerned individual. Challenging the said order,



the present writ petition has been filed.

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2. The learned counsel for the petitioner placed reliance on a similarly placed employees who services were regularized after completion of 10 years and monetary benefits were also extended from the date of their initial appointment and submitted that the order of rejection cannot be sustained.

3. Per contra, the learned Additional Advocate General placed reliance on the averments in the counter affidavit and submitted that judgments cited by the petitioner is not a judgment in rem. According to learned Additional Advocate General, the employee M.Ravi, with whom the petitioner has compared himself was appointed prior to 01.04.1981 and the petitioner had joined the services only in 1986 and therefore, comes under different Government Order. With such a submission, he sought for dismissal of the writ petition.

4. It is not in dispute that identically placed employees of the respondent Department, were extended with the service and monetary benefits from the date of their initial appointment itself and one such order, has been produced by the learned counsel for petitioner in the case of M.Ravi in Na.Ka.Pava6/462/2012 dated 08.08.2013. The only reason assigned in the rejection order is that case of M.Ravi will not apply to the petitioner herein.



The submission of learned Additional Advocate General in this regard cannot be sustained for two reasons. Firstly in the impugned order, the respondents have stated that the case of the similarly placed employees will not be applicable to the petitioner herein. This Court in various decisions had consistently held that there cannot be discrimination to two identically placed employees when it comes to extending of service and monetary benefits. It is a clear case of discrimination when the respondents have extended the benefits to the similarly placed employees but denied the same to the petitioner. On the ground of discrimination, the objection raised by the learned Additional Advocate General cannot be sustained.

5. Secondly, the reason now assigned in the counter affidavit is that M.Ravi joined the service prior to the petitioner and comes under different Government Order. This is not the reason assigned by them in the impugned order. It is a settled preposition that reasons assigned in the impugned order cannot be improved or modified through fresh averments made in the counter affidavit and is impermissible in law. On this ground also, the respondents cannot improve their case by letting in new evidence and thus, this ground also fails.

6. It is not in dispute that the petitioner had initially joined the services



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of the respondent on 08.04.1986. The order of regularisation has also been produced before this Court. Hence, the petitioner's date of regularisation stands substantiated as 08.04.1996.

7. In the result, the impugned order rejecting the petitioner's claim for monetary benefits from the date of initial appointment cannot be sustained and therefore, impugned orders dated 15.06.2006 and 20.06.2022 passed by the first and second respondents are quashed. Consequently, there shall be a direction to the first and second respondents to pass appropriate orders granting all the monetary benefits, including revision of the pensionary benefits to the petitioner from date of his regularisation i.e., from 08.04.1996 within a period of 8 weeks from the date of receipt of a copy of this order. No costs.

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Index:Yes/No
Internet:Yes/No
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M.S.RAMESH,J.

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To

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