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W.P.No.26989 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.26989 of 2021

K.Alagarsamy

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep. by its Secretary to Government,
Co-operative Food and
Consumer Protection Department,
Fort St.George, Secretariat,
Chennai – 600 009.

2.The Registrar of Cooperative Societies,

No.178, E.V.R. Periyar Salai,
Kilpauk, Chennai – 10.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to consider the petitioner's representations dated 29.10.2021 thereby direct the respondents to give monetary benefits to the petitioner based on the G.O.Ms.No.131 dated 09.11.2019 Cooperation, Food and Consumer Protection (CL2) Department within a stipulated period of time.

For Petitioner

:

Mr.B.Gopalakrishnan



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For Respondents : Mr.A.M.Ayyadurai,
Government Advocate

ORDER

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The petitioner has filed this petition seeking direction to the respondents to consider the petitioner's representations dated 29.10.2021 thereby direct the respondents to give monetary benefits to the petitioner based on the G.O.Ms.No.131 dated 09.11.2019 Cooperation, Food and Consumer Protection (CL2) Department within a stipulated period of time.

2. The case of the petitioner is that the petitioner viz., K.Alagarsamy was appointed as Junior Inspector of Cooperatives Societies on a temporary basis and rendered his service for more than 10 years. In such circumstances, the petitioner and other similarly placed persons made a joint representation before the Government to regularize their service. After the said representation, the Government has issued G.O.Ms.No.271 dated 10.11.1989 for conducting special qualifying examination for a temporary Junior Inspectors, unfortunately, the petitioner was failed in the said examination. This being so, candidates who passed in the aforesaid examination approached the Tamil Nadu State Administrative Tribunal for regularization of their service from 16.10.1989. Based on the direction issued by the



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Tribunal, the Government by its G.O.Ms.No.445 dated 20.12.2005, regularized the said candidates.

2.1. Further, the unsuccessful candidates including the petitioner filed O.A.No.912 of 1996, before the Tribunal and the same was transferred to this Court and re-numbered as W.P.No.28269 of 2006 and this Court by its order dated 21.09.2007, directed the first respondent to consider the case of the petitioner in the light of G.O.Ms.No.445, however, the same was not considered. Aggrieved over the same, the petitioner and other candidates filed a writ petition in W.P.No.25223 of 2008 and W.P.No.11322 of 2009, before this Court and the same was allowed on 27.01.2010. Challenging the said writ petitions, the respondents therein filed a writ appeal in W.A.Nos.2390 and 2008 of 2010, however, the same was dismissed by the Division Bench of this Court on 05.01.2011 and 18.01.2011, against which, the respondents therein preferred Special Leave Petition in S.L.P.Nos.12830 and 12832 of 2011, before the Hon'ble Apex Court and that was also dismissed.

2.2. Thereafter, the petitioner and other candidates were re-appointed



by the second respondent through proceeding in Rc.No.41406/2009/EM3 dated 31.05.2013, without any monetary benefits from 10.10.1990 to 04.06.2013. Challenging the same, the petitioner and other candidates filed a writ petition in W.P.No.15439 of 2014, before this Court and the same was allowed on 21.09.2017. Based on the said order, the first respondent passed G.O.(Ms).No.56 dated 11.05.2021 stating that the non-duty period of the petitioner and other person's between 10.10.1990 to 04.06.2013 is treated as Extra Ordinary Leave without allowances, however, in the case of one Mariyappan, the first respondent issued G.O.Ms.No.132 dated 09.11.2019 stating that the non-duty period from 10.10.1990 to 20.07.2008 be treated as “duty” by relaxing the section 3(o) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and he is also eligible for monetary benefits. Therefore, the petitioner made a representation dated 29.10.2021 before the respondents, claiming monetary benefits based on the G.O.Ms.No.131 dated 09.11.2019, however, no order was passed till date. Aggrieved over the same, the petitioner has filed this writ petition.

3. Though very many grounds have been raised in this Writ Petition,



learned counsel for the petitioner submitted that, it would suffice, if this Court issues direction to the respondents to consider the petitioner's representation dated 29.10.2021, if not considered earlier and pass appropriate orders on merits and in accordance with law, within a particular time frame to be fixed by this Court.

4. The learned Government Advocate appearing for the respondents has no objection for said order being passed by this Court.

5. Heard the learned counsel on either side and perused the materials available on record.

6. Taking into consideration the factual aspects of the matter, this Court without going into the merits of the case, directs the second respondent to consider the petitioner's representation dated 29.10.2021, if not considered till date and pass appropriate orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.



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7. This Writ Petition is disposed of with the above observation and direction. No costs.

10.07.2023

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Index : Yes/No

Speaking Order : Yes/No

J.SATHYA NARAYANA PRASAD,J.

vm

To:

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