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WP.No.11933/2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.09.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.11933/2017

Smt.S.Muthulakshmi

... Petitioner

Versus

1.The Government of Tamil Nadu
rep.by the Secretary to Government
Municipal Administration & Water
Supply Department, Fort St George
Chennai 600 009.

2.Greater Chennai Corporation
rep.by The Commissioner,
Park Town, Chennai 600 003.

3.The Assistant Commissioner
Greater Chennai Corporation
Zone XI, Valasavakkam
Chennai 600 087.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing respondents 2 and 2 to consider and dispose of petitioner's representation dated 10.09.2016 and sanction family pension to the petitioner with arrears of pension within a time frame.

For Petitioner : Mr.K.M.Ramesh



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WP.No.11933/2017

For R1	:	Senior counsel for Mr.S.Apunu
For RR 2 & 3	:	Mr.K.Surendharan, AGP Mr.S.Gopinathan

ORDER

- (1) The writ petition has been filed in the nature of a mandamus seeking a direction to the respondents 2 and 3 to consider and dispose of the petitioner's representation dated 10.09.2016 and to sanction Family Pension along with arrears within a time frame.
- (2) The late husband of the petitioner Thiru.K.Ruthar, was sponsored by the Employment Exchange for the post of Sweeper during the year 1997 and was originally engaged on daily wage basis by the Maduravoyal Town Panchayat and later issued with an order of appointment dated 07.10.1998 by the Executive Officer, Maduravoyal Town Panchayat with effect from 01.10.1998. He was then appointed on consolidated wages of Rs.900/- per month in accordance with G.O.Ms.No.84, Municipal Administration and Water Supply Department, dated 21.05.1998. The petitioner claimed that her husband was working continuously without any break. Subsequently,



WP.No.11933/2017

WEB COPY

by G.O.Ms.No.21, Municipal Administration and Water Supply Department, dated 23.02.2006, the services of her husband was regularised and he was paid the time scale of pay at Rs.2,550-55-2660-60-3200. The petitioner claimed that the Maduravoyal Town Panchayat had regularised the services of her husband only from 23.02.2006 though he was entitled for such regularisation from 21.05.1998. The husband of the petitioner came under the new pension scheme introduced on and from 01.04.2003 by virtue of G.O.Ms.No.259 dated 06.08.2003. The petitioner claimed that the said scheme was not applicable to her husband. It was stated that her husband was entitled to the old pension scheme which was in force even when he was in service. The petitioner's husband died due to illness on 03.11.2013. Thereafter, the petitioner had given a representation on 10.09.2016 claiming Family Pension. The present writ petition has been filed in the nature of a mandamus seeking to consider and dispose of the representation given by the petitioner dated 10.09.2016.

(3) A counter affidavit had been filed by the 3rd respondent herein,



WP.No.11933/2017

WEB COPY

wherein the claim of the petitioner that the services of her husband should have been regularised in the year 2001, had been questioned and had been denied and disputed. It had been stated that the Corporation of Chennai had taken over the administration of Maduravoyal Town Panchayat. It had been stated that only thereafter orders have been passed for regularisation. It was also contended that only after the approval from the 1st respondent, necessary orders could be passed.

- (4) A similar issue had come up for consideration before a learned Single Judge in WP.No.8667/2017 [***Samson V. The Government of Tamil Nadu rep.by its Secretary to Government, Municipal Administration and Water Supply Department, Chennai and Others***]. The learned Single Judge, after examining the facts therein, which are quite similar to the facts of this case, had finally passed the following order:-

"5.In such circumstances, the following order is



WP.No.11933/2017

passed:~

(i) the concerned authority shall immediately consider the representation dated 28.10.2016 made by the Petitioner in terms of G.O. (Ms) No. 142, Municipal Administration and Water Supply (TP.1) Department dated 23.09.2015 including ascertaining as to whether the Petitioner has been granted the entire benefits claimed;

(ii) if it is found that any details or supporting documents satisfying the eligibility criteria for the benefits claimed has not been produced, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 15 clear working days in that regard;

(iii) in the event of not being satisfied with the requirements thereafter, an enquiry shall be conducted affording opportunity of personal hearing to the Petitioner to explain his position in that regard;

(iv) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken



WP.No.11933/2017

communicated to the Petitioner by 31.10.2022 under written acknowledgment;

(v) if the Petitioner is found entitled to the claim made, the eligible amount of arrears of differential amount of monetary benefits after adjusting any payment already made along with working-sheet showing its calculation, shall be paid within a period of three months from the date of passing of such order, apart from revised pay for future months on the due dates; and

(vi) the report of completion of the aforesaid exercise shall be filed before the Registrar (Judicial) of the Court.

In fine, the Writ Petition is disposed on the aforesaid terms. No costs."

- (5) A similar order accrues to the petitioner herein and the same directions are issued to the respondents. The 3rd respondent shall also, as directed, file a Report of completion of the exercise mentioned therein before the Registrar [Judicial] of this Court. The same time limit as stated above in the earlier order, is also maintained in the present order.
- (6) The writ petition stands **disposed of**. No costs.



WP.No.11933/2017

WEB COPY

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Internet : Yes

To

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C.V.KARTHIKEYAN, J.,

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WEB COPY



WP.No.11933/2017

WP.No.11933/2017

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