



W.P.No.30638 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8.11.2023

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P..No.30638 of 2019

W.Mary Lidiyal Chandra

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Petitioner

Vs.

1. Union of India
Rep. by the Chief Secretary to Government,
Government of Puducherry,
Puducherry - 605 001.
2. The Director General of Police,
Government of Puducherry,
Puducherry.
3. The Inspector General of Police,
Government of Puducherry,
Puducherry.
4. The Commandant (Home Guard),
Government of Puducherry,
Puducherry.
5. The Secretary to Government,
Ministry of Home Affairs,
New Delhi.
6. The Registrar,
Central Administrative Tribunal,
High Court Building Campus,
Chennai 600 104.

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Respondents



W.P.No.30638 of 2019

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order dated 6.2.2018 passed in O.A.No.175 of 2017 passed by the 6th respondent and quash the same and consequently to set aside the order dated 5.5.2015 in No.1418/Estt.I (B)/A1/HG/2015 passed by the fourth respondent and consequently, direct the 5th respondent atleast count 50% of the previous service rendered in the Home Guards Organisation as a qualifying service for pensioner benefits.

For Petitioner : Mr.Gnanasekar
For Respondents 1 to4 : Mr.R.Syed Mustafa, Spl.G.P.
For Respondent No.5 : Mr.S.Divakar

ORDER

(Order of the Court was delivered by **D.KRISHNAKUMAR, J.**)

The petitioner was initially appointed as Home Guards on 18.12.1990 under Home Guard Organisation. Thereafter, he was absorbed as Village Assistant with effect from 22.10.2008 and brought under regular establishment by following 25% reservation quota allotted for Home Guards as per Rules. The petitioner was also permitted to retire from service with effect from 31.12.2012 on attaining the age superannuation.

2. The Grievance of the petitioner is that the petitioner made a representation to the District Collector, Puducherry on 7.2.2013 to take into consideration the service rendered by the petitioner as Home Guard for more than 17 years and count 50% of the service rendered by the petitioner as Home Guard together with the service rendered as Village Assistant as qualifying



W.P.No.30638 of 2019

service for the purpose of pensionary benefits. However, the same was rejected by the fourth respondent. The said order was under challenge before the tribunal in O.A.No.175 of 2017 and the same came to be dismissed. Hence, the instant writ petition.

3. According to the petitioner, service already rendered by the petitioner as Home Guard under Home Guard Organisation be treated as qualifying service together with the service rendered as Village Assistant for the purpose of pensionary benefits. Learned counsel appearing for the petitioner has submitted that since the petitioner was absorbed as Village Assistant by following 25% reservation quota under the rules, earlier period of service has to be counted as qualifying service for the purpose of pensionary benefits. The learned Special Government Pleader appearing for the respondents stoutly opposed the contention of the petitioner by stating that those who have absorbed after 1.1.2004 is not entitled to pension under old Pension Scheme.

4. We have heard the learned Counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 4 and perused the materials available on record.



W.P.No.30638 of 2019

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5. Admittedly, the petitioner was appointed as Home Guard in the year 1990 and he has served for more than 17 years under Home Guard Department. By virtue of 25% reservation quota for Home Guards under the Rules, the petitioner was appointed as Village Assistant on 22.10.2008 and he was permitted to retire from service on 27.3.2012. Now, the claim of the writ petitioner is that the petitioner made a representation to the first respondent that the service rendered by him as Home Guard in the Home Guards Department together with service rendered as Village Assistant be counted as qualifying service for the purpose of pensionary benefits. The said representation came to be rejected by the respondent by stating that the petitioner was appointed subsequent to the notification issued with regard to new Pension Scheme with effect from 1.1.2004 and therefore, the petitioner is not entitled to pension under old pension scheme. Though the petitioner had served as Home Guard prior to his appointment as Village Assistant, he was originally appointed as Village Assistant with effect from 22.10.2008 under regular establishment. As per the notification issued with regard to the new pension scheme, those who have appointed after 1.1.2004, are entitled to new pension scheme and therefore, we are of the view that as the petitioner was absorbed into regular service as Village Assistant after the crucial date viz., 1.1.2004, the petitioner is not entitled to pension under old Pension Scheme. The tribunal has rightly dismissed the O.A.No.175 of 2017 filed by the



W.P.No.30638 of 2019

petitioner and as such we are not inclined to interfere with the order passed by the tribunal.

6. Consequently, writ petition stands dismissed. No costs.

(D.K.K.J.) (P.D.B.J.)
8.11.2023

Speaking/Non Speaking order

Index: Yes

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To

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3. The Inspector General of Police,
Government of Puducherry, Puducherry.
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W.P.No.30638 of 2019

**D.KRISHNAKUMAR, J
AND
P.DHANABAL, J.**

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