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W.P.No.25161 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.25161 of 2017

P.Karuppan

.. Petitioner

VS

1.The Principal Secretary to Government
Municipal Administration & Water Supply Department,
Fort St.George,
Chennai – 600 009.

2.The Director of Municipal Administration,
Chepauk, Chennai – 05.

3.The Director of Local Fund Audit,
Integrated Complex for Finance Department,
Animal Husbandry Hospital Complex,
Nandnam, Chennai – 35.

4.The Commissioner,
Namakkal Municipality, Namakkal.

5.The Assistant Director of Local Fund Audit,
(Municipal Employees Pension Processing Division),
Integrated Complex for Finance Department,
Animal Husbandry Hospital Complex,
Nandanam, Chennai – 35.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to sanction pension to the petitioner under the Tamil Nadu Pension Rules, 1978 and pay all other retirement benefits including commutation of pension, encashment of earned leave, General Provident Fund, Gratuity and arrears of pension with interest within a stipulated period of time.



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For Petitioner : Mr.R.Prem Narayanan
For Respondents : Mr.V.Nanmaran, AGP
for R1, R2, R3 & R5
Mr.M.Rajamathivanan
for R4

ORDER

Writ petition has been filed in the nature of a mandamus seeking a direction against the respondents to sanction pension to the petitioner herein under the Tamil Nadu Pension Rules, 1978 and all other retirement benefits, including commutation of pension, encashment of earned leave and such other benefits.

2. In the affidavit filed in support of the writ petition, it had been stated that the petitioner was originally appointed as NMR in Namakkal Municipality on 11.01.1986 on daily wage basis. Thereafter, pursuant to G.O.Ms.No.125, Municipal, Administration and Water Supply Department dated 27.05.1999, he was brought into consolidated pay under the fourth respondent by order dated 24.08.2001. Thereafter, the fourth respondent had regularized his service as Sanitary Worker with effect from 01.09.2002. Finally, he retired from service on attaining the age of superannuation on 31.03.2013.



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3. The fourth respondent had forwarded the proposals to the third respondent. But the pension proposals had been returned stating that the service should have regularized only according to G.O.(Ms.).No.21, Municipal Administration and Water Supply Department dated 23.02.2006, since there was a ban for recruitment on the date of regularization on 01.09.2002. In this connection, the pension papers were held back in the office of the respondents and the petitioner did not know whether he would be eligible for grant of pension or not.

4. However, it is informed by the respondents that subsequently, the Government had clarified this particular issue by a communication dated 08.03.2023 issued by the Additional Chief Secretary to the Government to the Director of Local Fund Audit, the third respondent herein. In view of that particular communication, it had been clarified that those who had been regularized on or before 01.04.2003, would be entitled for pension in accordance with the Rules in place prior to 01.04.2003. In effect, the services should be counted as pensionable service.

5. The respondents also do not dispute this particular fact and therefore, since the letter was issued by the respondents



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themselves, it would be binding and the petitioner should be brought into service which should be categorized as eligible for grant of pension.

6. Learned counsel for the petitioner also placed reliance on a similar order passed by learned Single Judge of this Court dated 20.03.2023 [*T.Sudha v The Principal Secretary to Government, Municipal Administration and Water Supply Department and others*]. The learned Single Judge had also examined the very same letter dated 08.03.2023 and had finally stated that the issue raised by the petitioner is covered under the clarification issued by the Additional Chief Secretary to the Government in the aforementioned letter.

7. In view of the same, this writ petition stands allowed and a direction is issued to the respondents to proceed with the examination of the pension proposals of the petitioner herein and pass orders within a period of twelve weeks from the date of receipt to of a copy of this order. No costs.

14.09.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm



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To

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C.V.KARTHIKEYAN,J.

ssm

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