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W.P.No.17408 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.17408 of 2017

1.T.Sivagnanam
2.G.Pitchai
3.P.Jegadeesan
4.A.Pandi
5.J.Vasantha
6.S.Deivasigamani
7.P.Rajendren
8.N.Sekar
9.P.Thangaraj

.. Petitioners

Vs

1.State of Tamil Nadu
Rep by its Secretary,
Animal Husbandry Department,
Fort St. George,
Chennai 600 009.

2.The Commissioner and
Director of Animal Husbandry,
D.M.S.Compound,
Chennai 600 006.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to implement the G.O.Ms.No. 86 Animal Husbandry and Fisheries (FS-V) Department dated 14.08.2003 to the case of the petitioners who remitted their provident fund and gratuity received from TAPCO conferring full pension treating the service of the petitioners in the said TAPCO for pension.



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For Petitioner : Mr.V.V.Sathya
For Respondents : Mr.V.Nanmaran
Additional Government Pleader

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ORDER

There are nine writ petitioners. All of them were earlier working in the Tamilnadu Poultry Development Corporation Limited which was commonly known as (TAPCO).

2. The first petitioner was working as Senior Veterinary Livestock Supervisor. The second petitioner was also working as Senior Veterinary Livestock Supervisor. The third petitioner was working as Assistant. The fourth petitioner was also working as Assistant. The fifth petitioner was working as Steno-Typist. The sixth petitioner was working as Junior Assistant. The seventh petitioner was also working as Junior Assistant. The eighth petitioner was working as Animal Husbandry Assistant and the ninth petitioner was working as Helper.

3. To their misfortune, TAPCO came to be abolished by a policy decision taken, but to their fortune, the Government protected them by transferring and appointing them as Government servants in accordance with G.O.(Ms).No.91, Animal Husbandry and Fisheries (FS-V) Department dated 06.06.2000.



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4. The petitioners herein joined Animal Husbandry department. They had retired on attaining the age of superannuation. After they have been brought into the various departments, in this case, the Animal Husbandry Department, the services were regularized on and from the date they were so brought into that Department.

5. The issue in this writ petition is with respect to the services which they rendered earlier in TAPCO. In this connection, it is stated that the Government Order was passed in G.O.(Ms).No.86 Animal Husbandry and Fisheries (FS-V) Department dated 14.08.2003 and the number of years rendered by them in TAPCO were also also considered for calculation of pension but with two caveats.

6. The first one was that 50% of that particular service alone would be considered for considering the number of years for qualifying service for pension and the second was that they had to return back the gratuity which they had received when they were in employment as TAPCO employees. Necessary documents have been filed before this Court indicating challans paid to the State



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Treasury about repayment of the gratuity paid. The only issue is with respect to calculating 50% of the years of services put in by them in TAPCO and adding that 50% towards the qualifying years of services for grant of pension.

7. Learned counsel for the petitioner stated that such benefit had been extended to other employees. It is seen that the statement in fact is correct.

8. However, it is contended on behalf of the respondents that those who had earlier filed writ petitions were favorably considered and order was passed granting such extension of 50% of service towards calculation of pension only and that it would be only applicable to those who filed writ petitions. This defies logic.

9. Those who were working in TAPCO have to be placed on the same even scale. An order which is passed relating to an employee of TAPCO and directing that 50% of services rendered by that particular employee while in service in TAPCO, is a direction given in general as a principle by this Court. The principle laid down is that 50% of the service alone would be taken into consideration while calculating the number of years towards



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calculating the pension. This would be applicable to all those who were in employment in TAPCO irrespective of the fact whether they had approached the Court or not. The Court will not only have to consider those who approached the Court but also those were not able to, for some reason, approach the Court. Their interest cannot be withered away by the court and rejected.

10. In view of this particular reasoning I hold that the petitioners are also entitled to the same benefit, namely for calculation of 50% of the years which they have put in as employees of TAPCO to be also taken into consideration as qualifying years for grant of pension. A direction is issued accordingly.

11. The writ petition stands allowed to that extent. The respondents are directed to issue necessary proceedings in this regard within a period of sixteen weeks from the date of receipt of a copy of this order. No costs.

27.07.2023

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



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To

- 1.The Secretary,
Animal Husbandry Department,
Fort St. George,
Chennai 600 009.
- 2.The Commissioner and Director of Animal Husbandry,
D.M.S.Compound,
Chennai 600 006.



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C.V.KARTHIKEYAN,J.

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