



W.P(MD)No.12988 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.12988 of 2018

G.Neelamegam

...Petitioner

Vs.

1.The Managing Director,
M/s. Tamil Nadu Small Industries Corporation Ltd.,
A-26, Thiru.Vi.Ka Industrial Estate,
Guindy, Chennai

2. The Industries Commissioner and
Director of Industries and Commerce,
Chepauk, Chennai.

3. The Chairman and Managing Director,
TANSI Ltd.,
Chennai – 600 032.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus directing the Respondents to Sanction the Petitioner's family pension as Government employee by taking into consideration of the service rendered at Industries and Commerce Department between 1964 and



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1975 in the light of the Government Letter No.65116/Finance (Pension)/06 dated 20.12.2006 and direct the Respondents to disburse the arrears of Pension with all other attendant benefits to the petitioner in the light of is representation dated 05.03.2018.

For Petitioner : Mr.D.Rajkumar

For R1 & R3 : Mr.N.Sudalai Muthu
Standing Counsel

For R2 : Mr.A.Kannan
Additional Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents 1 and 3 and the learned Additional Government Pleader for the second respondent and perused the record.

2. No counter affidavit has been filed by the respondents.

3. The case of the petitioner is that the petitioner joined as



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a worker on 02.03.1964 under the 2nd respondent Department.

Subsequently, the name of the Department was changed as 'TANSI'.

The employees of the 2nd respondent Department were absorbed into the service of the 3rd respondent. During the absorption to TANSI, the ministerial employees of the 2nd respondent were asked to give their individual option to continue their employment in the newly formed Corporation (TANSI), whereas no such option were asked from the Workers like the petitioner to continue the employment in TANSI. The merger of service is a compulsory one and there is no option for the petitioner to move to other Departments and he was compelled to continue as Worker at TANSI.

4. The learned counsel for the petitioner submits that the petitioner rendered unblemished service in the said Department without any complaints from any quarters. During the service, the petitioner obtained B.A., and M.A., Degrees through distance education from Madurai and Annamalai University respectively.



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Apart from that, he was a Diploma holder in D.M.M (Diploma in Material Management). His qualifications were also duly recorded in the Service Register after due verification. As such, the learned counsel contends that the petitioner is qualified and eligible for promotion to the Ministerial Cadre from the Worker category and requesting the same, the petitioner made several representations to the 3rd responder to promote him to the Ministerial Cadre but it was rejected without assigning any valid reasons.

5. The learned counsel for the petitioner submits that the petitioner retired from service on 29.12.2000 and at the time of retirement, his service was treated as 'A' Grade Worker and he rendered service in Stores/Central Excise Works. He was also engaged in maintenance record works and in official related works, ESI, EPF etc with sincerity.

6. The learned counsel for the petitioner would also submit



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that the employees of the 2nd respondent were not given pension for the service rendered between 1964 and 1975 whereas the ministerial staffs of the 2nd respondent were given pension by the 2nd respondent for the similar service rendered between 1964 and 1975. The cutoff date for absorption from service of Industries and Commerce Department to TANSI was fixed as 04.05.1976. The learned counsel further submits that as per G.O.Ms.No.579 dated 15.09.2006, the petitioner is eligible to get the pensionary benefits. As such, the petitioner made a representation dated 21.09.2007 to the respondents through Workers Association of TANSI to implement the Letter No.65116/Finance (Pension)/06 dated 20.12.2006 for payment of family pension, Provident Fund to the retired TANSI Workers. The petitioner also submitted another written representation dated 08.09.2008 to the 1st respondent to implement the letter dated 20.12.2006 of the State Government and there is no action on behalf of the first respondent and the petitioner sent reminder to the respondents but there is no action on their part.



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7. The learned counsel for the petitioner further submits that the 1st respondent had passed an order in RC.No.470/CS/2007 dated 14.03.2007 stating that the petitioner worked in the 2nd respondent Department as Worker under work charged establishment and hence, the petitioner is not considered as Government employee. As such, the petitioner is not entitled for pension. The first respondent sent a proposal dated 11.03.2011 by rejecting the claim of the family pension and other benefits on the ground that the petitioner was deployed to the second respondent and worked as 'A' grade Worker for less than 10 years. Subsequently, the petitioner made a representation dated 05.03.2018 to the respondents but it was not considered by the respondents. Under these circumstances, the petitioner filed the present Writ Petition.

8. The learned Standing Counsel appearing for the



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respondents 1 and 3 contends that the petitioner worked as Worker in the 2nd respondent Department and he cannot be treated as a Government employee and as such, ever after absorption into TANSI, he is not entitled for the pensionary benefits.

9. Having considered the submissions of the respective counsels and upon perusal of the materials available on record and particularly, in the absence of any counter affidavit on behalf of the respondents, the admitted facts in this case are to be noted. The petitioner worked as Worker in the Industries and Commerce Department from 02.03.1964. The employees of the said Department were absorbed into TANSI i.e the 3rd respondent in the year 1976. The petitioner worked in the 3rd respondent Corporation and till his retirement i.e on 29.12.2000, the respondents did not consider the claim for promotion as per G.O.Ms.No.579 dated 15.09.2006 and to implement the letter No.65116/Finance (Pension)/06 dated 20.12.2006 of the State Government.



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10. The grievance of the petitioner is that the claim of the petitioner is rejected by the 3rd respondent without following the contents of G.O.Ms.No.579 dated 15.09.2006 and the letter dated 20.12.2006 of the 2nd respondent. Under these circumstances, in the considered opinion of this Court, as the petitioner is aged 75 years and he is not getting any pensionary benefits till date for 23 years after retirement, it is appropriate to direct the respondents to examine the representation dated 05.03.2018 submitted by the petitioner as per G.O.Ms.No.579 dated 15.09.2006 and letter No. 65116/Finance (Pension)/06 dated 20.12.2006 issued by the State Government for sanctioning pension within a stipulated time to meet the ends of justice.

11. Accordingly, this Writ Petition is disposed of with a direction to the respondents to examine the representation dated 05.03.2018 as per G.O.Ms.No.579 dated 15.09.2006 and letter No. 65116/Finance (Pension)/06 dated 20.12.2006 of the Statement



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Government and pass appropriate orders in accordance with law within a period of 6 weeks from today.

12. No costs.

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Index : Yes / No

NCC : Yes / No

CM

Note: Issue order copy on **28.08.2023**

To,
The Industries Commissioner and
Director of Industries and Commerce,
Chepauk, Chennai.



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BATTU DEVANAND, J.

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