



W.M.P.(MD)No.16754 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Tuesday, the Twenty Second day of August Two Thousand and
Twenty Three

PRESENT

The Hon`ble Mr.Justice BATTU DEVANAND

W.M.P.(MD)No.16754 of 2023

in

W.P.(MD) No.22151 of 2016

1 THE SECRETARY TO GOVERNMENT
REVENUE DEPARTMENT,
FORT ST.GEORGE,
CHENNAI -9.

2 THE DISTRICT COLLECTOR
MADURAI DISTRICT, MADURAI.

3 THE REVENUE DIVISIONAL OFFICER,
USILAMPATTI, MADURAI DISTRICT.

4 THE TAHSILDAR
OFFICE OF TAHSILDAR,
THIRUMANGALAM TALUK,
MADURAI DISTRICT.

... PETITIONERS/RESPONDENTS

Vs

1 JOTHIMANI

...1ST RESPONDENT/PETITIONER

2 THE ACCOUNTANT GENERAL,
361, ANNA SALAI,
CHENNAI

...2ND RESPONDENT/2ND RESPONDENT



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Prayer in WP(MD). 22151/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the 4th respondent, RDO, Usilampatti to count the 50% of prior service of regularization as qualified service along with regular service of petitioners husband for grant of enhanced family pension at the rate of 50% last pay drawn and to issue the family pension on the basis of total service rendered by her husband, revised pension, arrears, pensionary and other monetary benefits accrued thereon to the petitioner from the date of eligibility of family pension within a short date that may be fixed by this Honble Court.

ORDER : This Writ Miscellaneous petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.P.SUBBARAJ, Special Government Pleader for the petitioner, the court made the following order:-

This petition is filed by the Secretary to Government, Revenue Department; District Collector, Madurai District; Revenue Divisional Officer, Usilampatti; and Tahsildar, Thirumangalam Taluk, who are respondents 1 and 3 to 5 in W.P.(MD) No.22151 of 2016 seeking leave of this Court for filing of counter affidavit in the Writ Petition.

2. The Writ Petition has been filed seeking direction upon the 4th respondent,

RDO, Usilampatti to count 50% of prior service of regularization as qualified service



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along with regular service of the petitioner's husband for grant of enhanced family pension at the rate of 50% last pay drawn and to issue the family pension on the basis of total service rendered by her husband, revised pension, arrears, pensionary and other monetary benefits accrued thereon to the petitioner from the date of eligibility of family pension within a short date that may be fixed by this Court.

3. Upon perusing the averments made in the affidavit filed along with the petition, this Court noticed the reason stated in the affidavit for non-filing of the counter affidavit for a long period of 7½ years is that “due to bifurcation of Revenue Divisional Office, Usilampatti, some files were not properly handed over to the Revenue Divisional Office, Thirumangalam and also due to Covid-19 pandemic”.

4. It appears from the case record that one Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader took notice on 18.11.2016 on behalf of the respondents in the writ petition.

5. As per Rule 24(2) of the Madras High Court Writ Rules, the respondents/opposite parties in writ petitions, who intend to file counter-affidavits, have to file it within eight (08) weeks from the date of receipt of the notices. If they



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intend to file counter-affidavit beyond the stipulated period of eight weeks, they have to seek leave of the Court by filing appropriate application before the Court.

6. All the litigant public and Advocates shall scrupulously follow the Rules framed by the High Court in this regard.

7. The Hon'ble Apex Court in various cases, time and again held that "the right of speedy trial to be part of Article 21 of the Constitution of India".

8. In my opinion, the proposition of law is applicable to hear all branches of cases including Writ Petitions filed under Article 226 of the Constitution of India.

9. In the present case, the respondents did not file any counter-affidavit for more than 7½ years and now they come up with counter-affidavit along with the leave application. The reasons stated in the affidavit filed along with this application also establish the negligence and carelessness of the respondents in the writ petition. The reason for inordinate, unexplained and negligent delay in filing counter-affidavit is not stated except stating that Revenue Division is bifurcated. This Court noticed that some Writ Petitions are pending for 15 years in which counters are not filed till



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date.

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10. In the considered opinion of this Court, apart from various other reasons for the long pendency of the cases before this Court, the non-filing of counter affidavits by the respondents is one among the reasons. In most of these pending cases, it is seen that whenever cases are listed, the usual practice is to adjourn the cases on the ground that “counter is not filed” and “counsel for respondents sought time to file counter”. Timely justice is the right of every litigant and speedy justice is the obligation of every functionary of the judicial system. Long pendency of cases in High Court has become a matter of serious concern. The prolonging pendency of cases, changes the priorities of the litigant towards their life. Therefore, speedy disposal should be recognized as an urgent need of the present judicial system in order to decide the fate of litigants. The huge delay will create a sense of frustration among the litigants.

11. The Central Government, the State Government and its instrumentalities are the biggest litigants in the country. Around 80% of all cases are either contested by the State or appealed by it. Some appropriate steps have to be taken to regain the faith of the common man towards this institution. There should be a time limit for



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filing counters and unlimited time should not be provided for filing counters. The officers of the Government and its instrumentalities should be made more accountable for disposal of long pendency of cases.

12. For the above mentioned reasons, this Court is of the opinion it is appropriate to send a message to all the litigants, who are respondents and particularly to the Officers of State and Central Government and its instrumentalities, who are responsible for non-filing of counter affidavits after receipt of the notice, which is causing abnormal delay in disposal of the cases by this Court.

13. Accordingly, W.M.P.(MD) No.16754 of 2023 is allowed granting leave to the petitioners herein/respondent Nos.1 and 3 to 5 in the Writ Petition to file counter-affidavit on condition of payment of costs of Rs.10,000/- (Rupees Ten Thousand only/-) to be paid to the Registrar (Judicial) (Kalaingar Centenary Library Madurai) (Account No.7567821433, Indian Bank, Madurai Bench of Madras High Court Branch, Madurai) within a period of one week from today and file proof of payment of costs before this Court by 01.09.2023. The costs paid by the petitioners be recovered from the officers (whether they are in service or retired from the service) responsible for the delay in filing the counter-affidavit.



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14. Registry is directed to send a copy of this Order to the Chief Secretary of the Government of Tamil Nadu, Advocate General of the State of Tamil Nadu and the Additional/Deputy Solicitor General, High Court of Madras/Madurai Bench of Madras High Court, for issuing necessary instructions to all the officers concerned, to follow Rule 24(2) in true spirit, to enable this Court to dispose the matters as expeditiously as possible.

15. Post on 01.09.2023.

sd/-
22/08/2023

/ TRUE COPY /

/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

abr

TO

1 THE ACCOUNTANT GENERAL,
361, ANNA SALAI,
CHENNAI

2 THE SECRETARY TO GOVERNMENT
REVENUE DEPARTMENT,
FORT ST.GEORGE, CHENNAI -9.



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3 THE DISTRICT COLLECTOR
MADURAI DISTRICT,
MADURAI.

4 THE REVENUE DIVISIONAL OFFICER,
USILAMPATTI,
MADURAI DISTRICT.

5 THE TAHSILDAR
OFFICE OF TAHSILDAR,
THIRUMANGALAM TALUK,
MADURAI DISTRICT.

COPY TO

1.THE REGISTRAR(JUDICIAL)
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

2.THE CHIEF SECRETARY,
GOVERNMENT OF TAMIL NADU,
SECRETARIAT,
CHENNAI-600009

3. THE ADVOCATE GENERAL,
STATE OF TAMIL NADU,
MADRAS.

4.THE ADDITIONAL SOLICITOR GENERAL,
MADRAS HIGH COURT,
MADRAS.

5.THE DEPUTY SOLICITOR GENERAL,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



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W.M.P.(MD)
6.THE OFFICER INCHARGE,
KALAINAR CENTENARY LIBRARY,
MADURAI

ORDER
IN
W.M.P.(MD)No.16754 of 2023
in
W.P.(MD) No.22151 of 2016
Date :22/08/2023

RK/VRS (23/08/2023) 9P / 12C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023