



W.P.(MD).No.24661 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 05.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.24661 of 2016

Gopalakrishnan

... Petitioner

Vs.

1.The State of Tamilnadu,
Represented by the Secretary,
Handlooms, Handicrafts, Textiles
and Khadi Department,
Fort St.George, Chennai – 9.

2.The Director,
Department of Sericulture,
Annaimeedu, Salem.

3.The Assistant Director,
Sericulture Department,
Nannagaram, Tenkasi,
Tirunelveli District.

4.The Accountant General,
Office of Accountant General,
No.361, Anna Salai,
Chennai – 18.

5.The Director,
Directorate of Pension,
Chennai – 6.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the third respondent in Na.Ka.No.782/Aa/2016 dated 22.03.2016 and quash the same and consequently direct the respondents to disburse the EPF and Gratuity amount to the petitioner within stipulated time.

For Petitioner : Mr.S.Muniyandi

For R-1 to R-3 : Mr.R.Suresh Kumar,
Additional Government Pleader.

For R-4 and R-5 : Mr.P.Gunasekaran

ORDER

This Writ Petition is filed to quash the order dated 22.03.2016 and consequently direct the respondents to disburse the EPF and Gratuity amount to the petitioner.

2. The petitioner was engaged to maintain the Sericulture Department at the third respondent's Office and was paid Rs.7/- as daily wages from 1987 onwards. Thereafter, the respondents periodically increased the daily wages from Rs.7/- to Rs.226/- in the year 2010. The contention of the petitioner is



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that the first respondent passed G.O.Ms.No.25, Handloom Handicrafts, Textiles and Kadhi Department dated 23.02.2013 and the petitioner's service was regularized through the said Government Order. The petitioner was engaged for more than 10 years and 520 workers service have been regularized through the said Government Order who had served more than 10 years. The petitioner's scale of pay was fixed as Rs.2500-5000+Grade Pay of Rs.500/-. However, the respondents have regularized the service of the petitioner vide order dated 28.04.2010 as per G.O.Ms.No.25 dated 23.02.2010. The petitioner had retired from service on 30.09.2012. Moreover, the petitioner was engaged to work at the third respondent's office from 1987 onwards. Hence, the petitioner is eligible for pension. But, the petitioner was not granted any pensionary benefits. Moreover, 50% of the service cannot be taken into account, since the petitioner was regularized subsequent to 01.04.2003. The further contention of the petitioner is that the respondents have not paid EPF and Gratuity amount. When the petitioner made representation, the respondents have passed an impugned order stating that the petitioner is not entitled to.

3. The respondents have filed a counter stating that the petitioner's service was not classified under any service of Department of Sericulture.



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Therefore, the petitioner is not entitled to EPF and Gratuity that is applicable to the Government servant. Moreover 50% of the service cannot be considered into account because the petitioner's service was regularized after 01.04.2003. Therefore, the respondents prayed to dismiss this Writ Petition.

4. Heard Mr.S.Muniyandi, learned counsel for the petitioner, Mr.R.Suresh Kumar, learned Additional Government Pleader, appearing for the respondents 1 to 3 and Mr.P.Gunasekaran, learned Counsel for the respondents 4 and 5.

5. The specific contention of the respondents is that the petitioner's service was not classified under any service of the Department of Sericulture. Therefore, the petitioner is not entitled to PF and Gratuity. If that is so, then the respondents ought to have treated the petitioner as private employee and paid EPF. The respondents have neither treated as government employee so that the petitioner would be entitled to PF as applicable to the government employee, nor treated as private employee and paid the EPF. The Government being a model employer has not implemented the EPF scheme properly in the case of the petitioner and the similarly placed persons. By this act, the petitioner is



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neither coming under the Government service nor coming under any other service. The EPF Act was not applied to the petitioner service which is totally against the beneficial scheme of EPF.

6. Therefore, this Court is inclined to direct the respondents to compensate the petitioner by paying some amount. Hence, the second respondent is directed to pay Rs.50,000/- (Rupees Fifty Thousand only) to the petitioner. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order. The impugned order is quashed.

7. In view of the above, this Writ Petition is allowed. There shall be no order as to costs.

05.04.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



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S.SRIMATHY, J.

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