



WEB COPY



W.P.(MD).No.5373 of 2016

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.5373 of 2016

1.M.Susila

2.M.Murugan

3.M.Saravanan

4.M.Karthick

... Petitioners

Vs.

The Director of Evaluation and
Applied Research Department,
No.2, Kuralagam 3rd Floor,
Chennai – 108.

... Respondent

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 of the respondent resulting in the Respondent's Impugned Order dated 19.01.2015 passed in Letter No.1979/MaSeAaThu/Aa1/2014 and quash the same and direction directing the respondent to sanction the minimum pension eligible termination compensation any other benefits legally entitled to him.



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For Petitioners : Mr.V.R.Venkatesan

For Respondent : Mr.S.R.A.Ramachandran,
Additional Government Pleader.

ORDER

This Writ Petition is filed challenging the impugned order dated 19.01.2015 with a consequential direction to pay minimum pension to the petitioner's husband.

2. The husband of the first petitioner was appointed in the service of the respondent Department and was regularized on 27.07.1989. Thereafter, her husband continued in the said service in the scheme until 15.03.1995. Since the scheme was closed, the first petitioner husband was terminated from service. The deceased employee has put in 9 years 5 months 5 days in the regular service. In the meanwhile, the employee was died on 24.08.2009 leaving behind the first petitioner and other petitioners as his legal heirs. After his demise, the legal heirs of the deceased employee have filed this Writ Petition seeking minimum pension. The respondents have declined the same through the impugned order dated 19.01.2015 citing that the deceased



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employee has rendered only 9 years 5 months 5 days of service and has not served for 10 years. Further, the deceased employee was terminated from the service and thereafter only he died. Hence, he is not entitled to the pensionary benefits and other terminal benefits.

3. The respondent has filed a counter stating that prior to the regular service, the deceased employee has rendered temporary service from 16.06.1984 to 31.03.1988. Thereafter, there was break in service for more than 1 year 3 months 26 days. After break in service, the deceased employee was recruited from District Employment on 27.07.1989 and he has served until 15.03.1995. Thereafter, the employee had submitted representation to grant minimum pension and the same was declined since there is no qualifying 10 years of service to grant pension. Hence, the respondent prayed to dismiss the Writ Petition.

4. Heard Mr.V.R.Venkatesan, learned counsel appearing for the petitioner and Mr.S.R.A.Ramachandran, learned Additional Government Pleader appearing for the respondent.



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5. It is an admitted fact that the deceased employee was temporarily appointed as Sweeper cum Night Watchman in the office of the Deputy Director of Baseline Survey Madurai on 16.06.1984 and was terminated on 31.03.1988 due to completion of the survey and the office was closed. Thereafter, again recruited and appointed through Employment Exchange on 27.07.1989 and he was regularized with effect from 27.07.1989 by relaxing the rules vide order dated 04.03.2009. Then the service was terminated on 15.03.1995 for want of vacancy. The respondent declined to grant pension since the employee has not completed 10 years of regular service which is from 27.07.1989 to 15.03.1995. If both the services are taken together, then the deceased employee had rendered 9 years 5 months 5 days only.

6. The plea of the respondent is that there is no provision to grant pension for temporary service and moreover the said service was not regularized. It is also submitted that there was break in service between the two services. The plea of the respondent cannot be accepted, since the respondent has terminated the second service for want of vacancy, generally the Government would take such persons into some other services. In the first service, the respondent has terminated, since said office was closed. In such circumstances, both the



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services ought to be added and it comes to 9 years 5 months 5 days. Whenever there are some fraction months to complete 10 years, then the same ought to be rounded off. In the present case, since the deceased employee has completed 9 years, 5 months 5 days, he is entitled to round off to 10 years.

7. Since the deceased employee is entitled to round off, hence the impugned order is quashed. Therefore, the respondent is directed to round off the period and grant pensionary benefits to the petitioners. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

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

07.03.2023

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



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S.SRIMATHY, J.

Nsr

To
The Director of Evaluation and
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