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W.P.No.1862 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.1862 of 2022

G.Ramasamy

...Petitioner

-Vs-

1. The Managing Director,
TANHONDA,
Chepauk,
Chennai – 600 005.
2. The Joint Director,
Horticulture,
Krishnagiri District.
3. The Deputy Director of Horticulture,
Kaveri pattinam,
Krishnagiri,
Krishnagiri District.
4. The Assistant Horticulture Officer,
Government Horticulture Farm,
Thimmapuram,
Krishnagiri District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents herein to settle all the retirement benefits, gratuity and full pension .



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For Petitioner : Mr.M.Gouthaman

For Respondents : Mr.S.Rajesh
Government Advocate

ORDER

The writ petition has been filed to direct the respondents herein to settle all the retirement benefits, gratuity and full pension .

2. The petitioner had entered into the service in horticulture department as NMR worker in the year 1976. As per the Government order in G.O.Ms.No.494, Agriculture Department dated 29.11.2007, 1083 NMR workers were regularized including the petitioner, those who have worked as NMR for the period of ten years as on 01.01.2006, in the time scale of pay of Rs.1300-20-1500-25-2000 and dearness allowance was also paid forthwith. Therefore, the petitioner submitted representation for settlement of retirement benefits, gratuity and also pension.

3. Heard the learned counsel appearing on either side and perused the materials placed before this Court.



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4. On perusal of the counter affidavit filed by the respondents revealed that the petitioner was regularized out of sympathy and on humanitarian ground. Therefore, he is not entitled for any pension or death cum retirement gratuity . Mere regularization does not confer any legal right to claim any benefits. His service was regularized only based on the rules and regulation of the Tamil Nadu Horticulture Development Agency (hereinafter referred to as “TANHODA”) and not under the Tamil Nadu Government Servants Establishment Rules.

5. In fact, the first respondent had recommended to the government to provide pay allowances as per G.O.Ms.No.303, Finance (Pay cell) department dated 11.10.2017. Accordingly, the government passed order in G.O.Ms.No.88, Agriculture and Farmers Welfare Department, dated 21.06.2021, by granting pay allowances like House Rent Allowances, City Compensatory Allowance, Medical Allowance and other allowance and other allowances along with annual increment as applicable to one time scales pay from time to time as per G.O.Ms.No.303 Finance (Pay Cell) Department, dated 11.10.2017. In the



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said G.O., there is no provision to provide pension. All the above welfares provided only for the goodness of the petitioner and other labourers.

6. Further the Tamil Nadu Pension Rules is applicable only to regular government servants and it is not applicable to the servants of the society funded by the government. The Rule 2 of the Tamil Nadu Pension Rules applies to the Government servants appointed to the services and posts in connection with the affairs of the State, which are borne on pensionable establishment. It shall not apply to the casual and daily rated employees, contract workers, persons bought under the contributory provident funds and they were paid from the contingencies. The petitioner was paid salary from the funds of the first respondent society and not from the funds of the Horticulture Department. Therefore, the petitioner is not entitled to get the benefits of pension as per the Tamil Nadu Pension Rules, 1978.



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7. In view of the above discussions, the writ petition is devoid of merits and liable to be dismissed Accordingly, the Writ Petition stands dismissed. There shall be no orders as to costs.

03.01.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

rts

To

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G.K.ILANTHIRAIYAN. J,

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