



W.P.(MD).No.1105 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 06.08.2024

ORDER PRONOUNCED ON : 08.08.2024

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.1105 of 2022
and WMP(MD).No.910 of 2022**

A.Michaelraj

....Petitioner

Vs

1.The Additional Chief Secretary
Municipal Administration & Water Supply Department
Secretariat
St.George Fort, Chennai -09

2.The Director of Town Panchayat
MRC Nagar
Raja Annamalaipuram
Chennai 28

3.The Assistant Director of Town Panchayat
Collectorate Complex
Sivagangai
Sivagangai District

4.The Executive Officer
Town Panchayat Office
Natarasankottai Village & Post
Sivagangai District

5.The Chairman
Town Panchayat
Natarasankottai
Sivagangai District

...Respondents



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Prayer : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 3rd and 4th respondents to include the petitioner's name under the provisions of the Tamil Nadu Pension Rules, 1978 and to disburse the eligible pension for his services with retrospective effect from 01.03.2020 with arrears, based on his representation dated 20.11.2021, within the time frame that may be stipulated by this Court.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

The instant writ petition has been filed by a retired electrician of the fifth respondent Town Panchayat seeking a mandamus to direct the third and fourth respondents to confer upon him the benefit under the Old Pension Scheme and disburse the eligible pension with retrospective effect from 01.03.2000 onwards based upon his representation dated 20.11.2021.

2.The fifth respondent Town Panchayat had passed a resolution on 27.09.2000 for appointment of electrician apart from other posts. The said resolution was accepted by the third respondent herein and appointment order was issued to the petitioner as electrician with effect from 01.11.2000 on consolidated pay.



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3.A Government Order was issued in G.O.Ms.No.60 Rural Development and Panchayat Raj Department dated 23.06.2006 directing the authorities to absorb the employees under the consolidated pay as time scale employees. Pursuant to the said G.O, the second respondent by his proceedings dated 13.07.2006 had converted the post of petitioner from consolidated pay to time scale of pay.

4.The petitioner had become a member of Contributory Pension Scheme. On his retirement on 29.02.2020, a sum of Rs.7,46,798/- was disbursed to the writ petitioner on 04.02.2021 under the Contributory Pension Scheme. On 20.11.2021, the petitioner had addressed a representation to the respondent authorities seeking to reckon the period of his consolidated pay between 01.11.2000 to 28.02.2020 and confer benefits upon him under the Old Pension Scheme. Since the representation was not considered, the present writ petition has been filed.

5.As could be seen from the averments in the affidavit and the documents annexed to the typed set of papers, the petitioner was appointed on consolidated pay on 01.11.2000 and his services were regularised and brought him within the time scale under G.O.Ms.No.60 Rural Development and Panchayat Raj Department, dated 23.06.2006.

6.A perusal of the proceedings of the second respondent dated 13.07.2006 clearly indicate that the time scale of pay would come into force



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only from 23.06.2006 namely from the date of the Government Order.

Therefore, it is clear that the petitioner's service was regularised only with effect from 23.06.2006.

7.The Hon'ble Full Bench of our High Court in a judgement reported in **2019 (6) CTC 705 (Government of Tamil Nadu Vs.R.Kaliyamoorthy)** in paragraph No.45 Clause (v) has held that those Government servants who were appointed prior to 01.04.2003 but regularised after 01.04.2003 will not be entitled to count half of their past services for the purpose of determination of qualifying service for pension. Therefore, in such circumstances, it is clear that the petitioner's service rendered under the consolidated pay between 01.11.2000 to 23.06.2006 cannot be taken into consideration for the purpose of calculating qualifying service for pension.

8.In such circumstances, this Court finds that there is no legal right to the petitioner to seek a direction as against the authorities to bring him under the provisions of Tamil Nadu Pension Rules, 1978. Hence, there are no merits in the writ petition and this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08.08.2024.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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