



W.P.(MD)No.7605 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.7605 of 2022

V.Meganathan

... Petitioner

-VS-

1.The Registrar General,
Madras High Court,
Chennai-600 104.

2.The Accountant General Officer,
Accounts and Entitlements,
361, Anna Salai,
Teynampet, Chennai-600 018.

3.The State of Tamil Nadu,
Rep. by its Secretary to
Govt. Home (Courts) Department,
Secretariat,
Fort St. George,
Chennai-600 009.

4.The State of Tamil Nadu,
Rep. by its Secretary to
Finance Department (Courts),
Secretariat,
Fort St. George,
Chennai-600 009.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the 2nd respondent to comply with the order of the Hon'ble Apex Court in Civil Appeal Nos.8216 to 8222 of 2018



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dated 13.08.2018 and Government letters by taking into account the service rendered as Assistant Public Prosecutor, Judicial-II Class Magistrate and Additional District Judge Fast Track Court-II for the grant of the petitioners for pension, gratuity, leave salary, DCRG and other retirement emoluments from the date of superannuation in so far as the petitioner is concerned within such time as framed by this Court.

For Petitioner : Mr.M.Joseph Thatheus Jerome
For R-2 : Mr.S.Mahalakshmi,
Standing Counsel
For R-3 & R-4 : Mr.S.R.A.Ramachandran,
Additional Government Pleader

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

The prayer in the writ petition reads as follows:

“To issue a Writ of Mandamus directing the 2nd respondent to comply with the order of the Hon'ble Apex Court in Civil Appeal Nos.8216 to 8222 of 2018 dated 13.08.2018 and Government letters by taking into account the service rendered as Assistant Public Prosecutor, Judicial-II Class Magistrate and Additional District Judge Fast Track Court-II for the grant of the petitioners for pension, gratuity, leave salary, DCRG and other retirement emoluments from the date of superannuation in so far as the petitioner is concerned within such time as framed by this Court.”



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2. The petitioner who was appointed as a District Judge, Fast Track Court on 24.02.2002, served in that capacity till he attained superannuation on 28.02.2009. The total period of service was 7 years and 5 days. The petitioner was not granted a pension since, according to the Government, he did not complete the qualifying years of service. The petitioner claimed pension on the ground that he had served as an Assistant Public Prosecutor for the period between 20.12.1977 to 25.01.1979 and as a Judicial Magistrate-II Class between 26.01.1979 to 31.07.1981, he had claimed that if the said service was added to his service as a fast track judge, he would have completed 10 years of service and hence, he would be entitled to pension.

3. The request was rejected by the Government mainly on the ground that both as an Assistant Public Prosecutor as well as the Judicial Magistrate – II Class, the petitioner had chosen to resign from the post and in view of Rule 23 of the Pension Rules, 1978, which provides that the person who resigns will forfeit the service. The fact that the petitioner had resigned as Judicial Magistrate – II Class is not in dispute and the applicability of the Rule 23 of the Pension Rules, 1978, cannot also be, therefore, disputed. But there remains one another aspect which was not considered while rejecting the claim of the petitioner to pension. In **NCT Delhi .vs. All India Young Lawyer Association**, the Hon'ble Supreme



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Court had held that wherever a person is recruited to the higher judicial service, which will take in, the post of District Judge also, 10 years should be added to the actual service for the purpose of calculating the qualifying service for pension. A recommendation was also made by the 2nd National Judicial Pay Commission which had, on the basis of the judgment in **NCT Delhi .Vs. All India Young Lawyers Association**, recommended inclusion of the weightage also.

4. The said recommendation was accepted by the Hon'ble Supreme Court in **All India Judges Association .vs. Union of India and others reported in 2024(1) SCC 546**. Subsequently, the Hon'ble Supreme Court in **Union of India .vs. Justice. Retired Raj Rahul Garg and others**, has also reiterated the fact that the addition of 10 years should be applied to the District Judges in terms of its pronouncement in **NCT Delhi .Vs. All India Young Lawyer Association reported in 2009(14) SCC 49**. In view of the above categorical pronouncements by the Hon'ble Supreme Court it becomes necessary that in order to determine the total length of service of the petitioner for the purposes of the grant of pension a period of 10 years needs to be added and if it is added, the total service of the petitioner would be 17 years and 5 days and as such he would be automatically entitled to pension.

5. In view of the above, this writ petition is allowed. The order



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rejecting the claim of the petitioner for grant of pension is set aside.

6. Though the State Government accepted the claim of the petitioner, the Accountant General's Office objected to it based on Rule 23 of the Pension Rules, 1978. Therefore, the objections are over ruled and there will be a mandamus to the State Government to calculate the pension of the petitioner by adding 10 years of service to his actual service of 7 years and 5 days and grant him pension accordingly.

7. The said exercise shall be undertaken and completed within a period of twelve (12) weeks from the date of receipt of a copy of this order. All monetary benefits due to him shall be paid within a period of twelve (12) weeks. The gratuity will carry interest at 9 percent per annum if it is not been paid so far from the date of retirement till the date of payment. No costs.

[R.S.M., J.]

[L.V.G., J.]

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NCC : Yes/No
Index : Yes/No
Internet : Yes
Sml



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