



W.P.(MD).No.9302 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.9302 of 2021

K.Balasubramanian

... Petitioner

Vs.

1.The Director of Rural Development
& Panchayat Raj,
Panagal Building,
Saidapet, Chennai-15.

2.The District Collector,
Madurai District,
Madurai-20.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to include the petitioner in the old pension scheme as per the Tamil Nadu Pension Rules 1978, in view of the judgment rendered in W.A.No.158, 314, 315, 316, 317, 343, 426, 455, 490, 536, 610 and 1235 of 2016 and other batch cases dated 03.12.2019 by considering his representation dated 31.05.2017 and 24.04.2021 within the period stipulated by this Court.



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For Petitioner : Mr.N.Sathish Babu

For Respondents : Mr.D.Gandhiraj,
Special Government Pleader

ORDER

The present writ petition has been filed for the issue of a writ of mandamus, directing the respondents to include the petitioner in the old pension scheme as per the Tamil Nadu Pension Rules 1978, in view of the judgment rendered in W.A.No.158, 314, 315, 316, 317, 343, 426, 455, 490, 536, 610 and 1235 of 2016 and other batch cases dated 03.12.2019 by considering his representation dated 31.05.2017 and 24.04.2021 within the period stipulated by this Court.

2.Heard, the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents. Perused the materials on record.



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3.(i)The petitioner was appointed as Part Time Panchayat Clerk on 04.03.1986 at Virusangulam Village Panchayat. The Government of Tamil Nadu, vide G.O.Ms.No.349 P&AR dated 12.04.1984, amended the Tamil Nadu Ministerial Service Rules by reserving 10% of vacancies in the cadre of Junior Assistant / Rural Welfare Officers Grade – II for the part time and full time clerks of Village Panchayats who have put in a regular service for more than 5 years. As per the aforesaid Government order, the petitioner was promoted as Junior Assistant on 19.11.2004. Thereafter, on attaining the age of superannuation, he retired from service on 31.01.2017.

(ii)Thereafter, he approached the respondents to include him under the old pension scheme as per the Tamil Nadu Pension Rules, 1978 and made several representations, last of which, was made on 24.04.2021. However, the same were not considered. Hence, this petition came to be filed.

4.The learned counsel appearing for the petitioner submitted that considering the fact that the petitioner has served before 01.04.2003 in a non-provisonalised service and thereafter, granted with time scale of pay.



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Therefore, his half of service should be taken into account for the purpose of grant of old pension based on the order passed in W.A.Nos.158 of 2016 batch, dated 03.12.2019 and prayed to allow the petition.

5.Per contra, the learned Special Government Pleader filed a counter submitted by the 2nd respondent and contended that the petitioner was never granted with time scale of pay, he was granted only with Special time scale of pay. From the date of appointment till the date of retirement, he served as a Part-time employee. Hence, prayed to dismiss the petition.

6.Considering the limited relief sought for by the petitioner, without going into merits of the case, I hereby direct the respondents to consider the representation submitted by the petitioner on 31.05.2017 and 24.04.2021 and pass appropriate orders in accordance with law, within a period of twelve weeks (12) from the date of receipt of copy of this order.



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7. With the above directions, this writ petition stands disposed of.

There shall be no order as to costs.

03.06.2024

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

To

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& Panchayat Raj,
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L.VICTORIA GOWRI, J.

Sml

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