



W.P.(MD)No.3078 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.11.2024

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(MD)No.3078 of 2019
and
W.M.P.(MD)No.1884 of 2023

M.Krishnan

... Petitioner

Vs.

1.The Secretary,
Labour and Employment Department,
Government of Tamil Nadu,
Fort St.George,
Chennai-9.

2.The Assistant Commissioner of Labour,
Social Protection Scheme,
Sivaganagi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Ceritorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in Na.Ka.No. 1067/2018, dated Nil, signed on 27.12.208 quash the same and consequently, direct the respondent to pay petition arrears from 01.07.2016 to 31.05.2018 within a time limit that may be fixed by this Court.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.P.Thambidurai
Government Advocate



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ORDER

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This writ petition has been filed challenging the order passed by the second respondent in Na.Ka.No.1067 of 2018, whereby the representation of the petitioner seeking arrears of pension was rejected.

2.The petitioner was employed as Potter. The petitioner registered himself with the Tamil Nadu Manual Workers Welfare Board. The petitioner attained the age of 60 years on 30.06.2016. Thereafter, the petitioner submitted an application before the Labour Officer for payment of pension. However, the pension was ordered to be paid from June, 2018 instead of 01.07.2016, which is from the date of completion of 60 years. Hence, the petitioner made a representation dated 21.12.2018 seeking to pay the pension from the date of attaining the age of 60 till June 2018. Since the said representation was rejected, the petitioner has filed this writ petition.

3.The learned counsel for the petitioner submits that under the Tamil Nadu Manual Workers Social Security and Welfare Scheme, 2006, the petitioner is entitled for pension from the date of completion of 60 years of age as the petitioner falls under the purview of the said Scheme. However, even though the representation was made and evidences have been produced with



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regard to the age of the petitioner, without considering the same, the first respondent has simply rejected the same.

4.The learned Government Advocate for the respondents submits that the respondents were directed to pay the pension from June, 2018 onwards, by Executive Engineer. Without any instructions from the Executive Engineer, the respondents are not in a position to pay the pension as prayed by the petitioner.

5.Heard the learned counsel appearing on either side and perused the materials placed on record.

6.There is no dispute on the aspect that the petitioner has attained the age of 60 years on 30.06.2016. The pension was sanctioned from 11.06.2018. The request for pension from the date on which the petitioner attained the age of 60 was made by the petitioner through a representation dated 21.12.2018 narrating his date of birth and receipt of pension. In the representation of the petitioner, he has categorically stated that from 30.06.2016, he is entitled to pension in terms of Tamil Nadu Manual Workers Social Security and Welfare Scheme, 2006. For easy and ready reference Clause 18 (1) of the Scheme is extracted below:



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“18. Pension Scheme.- (1) Eligibility – Every registered manual worker who has completed 60 years of age is eligible for pension, [if he has continued as such worker for a continuous period of not less than five years.]

Provided that a manual worker who has not completed 60 years of age but registered with the Board [for a continuous period of five years] is also eligible for pension if he has become disabled due to sickness and incapacitated from normal work.”

7. Reading of the above clause makes it clear that every registered manual worker is entitled for pension immediately from the date on which, he attained the age of 60 years. In the present case, the petitioner attained the age of 60 on 30.06.2016. Hence, from that date onwards, the petitioner is entitled for pension under the said Scheme. However, the pension was sanctioned from June, 2018 only. Further, the instructions from the Executive Engineer cannot override the Scheme. Hence, the order passed by the second respondent cannot be sustained in the eye of Law.

8. In such view of the matter, this Court sets aside the order passed by the second respondent. Accordingly, this writ petition stands allowed and the



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matter is remitted back to the second respondent for re-consideration in accordance with the Tamil Nadu Manual Workers Social Security and Welfare Scheme, 2006. The second respondent is directed to reconsider the petitioner's application/representation dated 21.12.2018 and pass appropriate orders to the extent of releasing pension to the petitioner from 01.07.2016 to 31.05.2018 within a period of eight (8) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Index:yes/no
Internet:yes/no
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To

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KRISHNAN RAMASAMY, J.

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