



W.P(MD)No.8420 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.8420 of 2019

G.Senthamilselvan

... Petitioner

Vs

- 1.The Managing Director,
Tamilnadu Water Supply and Drainage Board (TWAD),
Chepauk, Chennai-5.
 - 2.The Superintending Engineer,
Tamilnadu Water Supply and Drainage Board (TWAD),
Trichy-Pudukkottai Circle,
Trichy.
 - 3.The Executive Engineer,
Maintenance Division,
Tamilnadu Water Supply and Drainage Board (TWAD),
Trichy.
- ...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 1 to 3 to sanction and pay terminal and pension benefits to the petitioner by taking his entire regular/permanent



W.P(MD)No.8420 of 2019

services from 24.03.1991 to 31.03.2017, along with his NMR service from 22.11.1989 to 23.03.1991 and also by taking his pensionable services as more than 27 years, after counting his permanent service period from 24.03.1991 to 31.03.2017 and also the half of his service period from 22.11.1989 to 23.03.1991 as per Rule 11(2) of the Tamilnadu Pension Rules and G.O.No.408, dated 25.08.2009, Finance (Pension) Department, Government of Tamil Nadu after adjusting the amount already paid to the petitioner together with 18% interest per annum, within a time frame as may be fixed by this Court.

For Petitioner : Mr.V.R.Arunkumar
For Respondents : Mr.R.Satheesh

ORDER

The petitioner was appointed as a Helper in the Tamilnadu Water Supply and Drainage Board on 22.11.1989 on Nominal Muster Roll basis/daily wage basis. In the year 1991, the petitioner along with other workers have been terminated from service by the respondents. Therefore, the petitioner along with other workmen have raised Industrial Dispute in I.D.Nos.95 of 1996,



W.P(MD)No.8420 of 2019

2 of 1997 and 3 of 1997 before the Labour Court, Trichy and the same was disposed of by a Common order, dated 31.03.1998, directing the respondents to reinstate the petitioner along with others into service with back wages. Challenging the same, the respondent Management has filed W.P.Nos.1303 to 1306 of 2010 before this Court, wherein, an interim direction was issued to reinstate the petitioner and other workers. Accordingly, they have been reinstated into service, by order, dated 26.05.2000. Thereafter, W.P.Nos.1303 to 1306 of 2010 were disposed of by this Court, by order, dated 03.10.2007, with a direction to the respondent Department to regularize the service of the workmen from the date, on which, they have completed 480 days of continuous service, based on the settlement made by the respondent Department with the trade union, under Section 12(3) of the I.D.Act, dated, 08.08.1996. The Executive Engineer/the third respondent herein, by his proceedings, dated 15.07.2010 has regularized the petitioner's service with effect from 24.03.1991. However, the arrears of monetary benefits have not been settled to this petitioner. He has retired from service on



W.P(MD)No.8420 of 2019

WEB COPY

attaining the age of superannuation on 31.03.2017. After his retirement, the petitioner was paid with Rs.1,08,644/- towards retirement gratuity and Rs.1,96,162/- towards service gratuity. According to the petitioner, since he has rendered 26 years of service, he is entitled to receive pensionary benefits, however, he was denied with same. Therefore, the petitioner has approached this Court by way of this writ petition.

2.The learned counsel appearing for the petitioner submits that the respondents ought to have calculated his service from 24.03.1991 to 31.03.2017, as per their own order. Though the petitioner has completed 27 years of service, he was denied the pensionary benefits and therefore, a direction may be issued to the respondents to pay the eligible pensionary benefits to him.

3.The learned counsel appearing for the respondents submits that the petitioner was engaged as a Helper in the respondent Board in the year 1989 on daily wages basis. He was not



W.P(MD)No.8420 of 2019

WEB COPY

engaged from 31.11.1991. The learned counsel further submits that after lapse of five years, the petitioner and others have raised an industrial dispute in ID No.95 of 1996, 2, 3 & 16 of 1997 for permanent status before the Labour Court, Trichy. The Labour Court, Trichy, by its common order, dated 31.03.1998, directed the respondents to reinstate him in service with back wages. The writ petitions preferred by the respondent Department challenging the orders passed by the Labour Court, Theni were disposed of with a direction to the respondents to regularize the petitioner's service and accordingly the first respondent has passed an order dated 04.03.2008. According to the learned counsel, the third respondent has inadvertently passed orders in his proceedings No. 1303/Proj.Sub.Divn/JR.Assistant/Maintenance/Divn/Trichy, dated 15.07.2010, regularizing the petitioner's service with effect from 24.03.1991 and fixing his scale of pay with effect from 24.03.1991 and also re-fixing his scale of pay. Since the petitioner has joined in service regularly as Maintenance Assistant from 27.03.2008 and retired from service on attaining the age of superannuation on



W.P(MD)No.8420 of 2019

WEB COPY

31.03.2017 and he has not completed 10 years of qualifying service in a regular post of Maintenance Assistant, he is not entitled for pension.

4.This Court considered the rival submissions made and also perused the materials placed on record.

5.The case of the petitioner is that though he has completed 27 years of continuous service in the respondent Board, the pensionary benefits have been denied to him. On the side of the respondents, a stand has been taken that the petitioner has been regularized only from the year 2008 and he was not in service from the year 2001, he is not entitled for the retirement benefits as he has not completed 10 years of qualifying service after regularization made in the year 2008. However, the respondents have admitted in their counter affidavit that "the third respondent has inadvertently passed orders in his proceedings No.1303/ Proj.Sub.Divn/ JR.Assistant/Maintenance/Divn/Trichy, dated 15.07.2010,



W.P(MD)No.8420 of 2019

WEB COPY

regularizing the petitioner's service with effect from 24.03.1991 and fixing his scale of pay with effect from 24.03.1991".

6.In view of the specific admission by the respondents in their counter affidavit that the petitioner has been regularized with the effect from the year 1991, by the proceedings of the third respondent, dated 15.07.2010, this writ petition is allowed as prayed for. The respondents are directed to pay the terminal and pension benefits to the petitioner, by taking into consideration of the entire service rendered by him in the respondent Department within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

16.12.2024

NCC:Yes/No
Index:Yes
vrn



W.P(MD)No.8420 of 2019

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W.P(MD)No.8420 of 2019

B.PUGALENDHI, J.

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