



W.P(MD)No.8569 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2024

CORAM :

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD)No.8569 of 2019

and

W.M.P.(MD)No.6682 of 2019

K.Angamuthu

... Petitioner

Vs.

1.The Secretary,
Tamil Nadu Manual Workers Welfare Board,
8, Valluvar Kottam Highways,
Nungambakkam, Chennai-34.

2.The Labour Officer,
Social Welfare Scheme,
Karur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 2nd respondent in Na.Ka.No.94/2018, dated 23.03.2018, quash the same and consequently, to direct the respondents to pay the arrears of the old age pension to the petitioner from the date of the petitioner's superannuation ie., 25.12.2008 within the time limit that may be stipulated by this Court.



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For Petitioner : Mr.G.M.Xavier
For Respondents : Mr.P.Thambidurai,
Government Advocate

ORDER

Challenge has been made to the order dated 23.03.2018 passed by the 2nd respondent.

2.The case of the petitioner is that he was doing manual work for more than 3 decades. As per the Tamil Nadu Manual Workers (Construction Workers) Welfare Scheme, 1994 (hereinafter referred to as 'the scheme'), it is mandatory that a person, who intends to avail pension under the scheme, supposed to register his / her name continuously for five years. Therefore, the petitioner registered his name under the scheme on 10.05.2000 and renewed his membership regularly. He attained the age of 60 years on 25.12.2008. Therefore, he applied for pension on 09.09.2010 before the 2nd respondent, who in turn, vide order proceedings dated 23.03.2018, has rejected the same, stating that the petitioner failed to renew the registration continuously for five years prior to attaining the age of superannuation. Challenging the same, the petitioner has filed this Writ Petition.



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3.The learned counsel appearing for the petitioner, relying upon Clause 6 of the scheme, would submit that in the event if there was no renewal of registration by the petitioner, the Labour Officer supposed to send notice for cancellation of registration and thereafter, if there is no application received for renewal, the registration shall be considered as cancelled. However, the respondents have not issued any notice and further, as per G.O.(Ms)No.36, Labour and Employment (I-2) Department, dated 28.02.2011, the requirement of continuous registration for five years was removed. Therefore, the impugned order, which is passed on the ground of non-renewal of registration, has to be set aside.

4.On the other hand, the learned Government Advocate appearing for the respondents would submit that since no renewal was made in terms of the provisions of the scheme, the request of the petitioner seeking pension was rejected. However, he would fairly submit that no notice was issued for cancellation of the registration of the petitioner on the ground of non-renewal of every two years by the petitioner.



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

6. Admittedly, there is no dispute on the aspect that the petitioner is the manual worker and he has also made registration under the scheme on 10.05.2000 and attained the age of 60 years on 25.12.2008. Since the petitioner has already registered with the scheme, he is entitled for pension under the scheme. It appears that though the petitioner made request seeking pension, it was rejected by the 2nd respondent citing the reason that the petitioner failed to renew the registration continuously for five years.

7. On perusal of the scheme, it is seen that it is necessary for the petitioner to renew the registration every two year. But in the event of non-renewal of the registration, it is the obligation on the part of the respondents to issue notice for cancellation of the registration. In the present case, it is admitted by the respondents that no notice was sent to the petitioner. Therefore, the registration made by the petitioner holds good till the age of 60 years.



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8.It is to be noted that due to illiteracy on the part of the manual workers to register themselves every five years, the Government issued G.O.(Ms)No.36, Labour and Employment (I-2) Department, dated 28.02.2011, where the requirement of continuous registration for five years was removed.

9.Upon considering all these aspects, this Court is of the view that the 2nd respondent ought not to have rejected the request of the petitioner seeking pension under the scheme. Therefore, the impugned order passed by the 2nd respondent is set aside and the 2nd respondent is directed to calculate the pension along with arrears with effect from 25.12.2008 till the date of disbursement and pay the same to the petitioner within a period of three months from today, failing which, the 2nd respondent is directed to pay interest at the rate of 10% per annum from 25.12.2008 till the date of payment.

10.Accordingly, this Writ Petition is disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

05.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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KRISHNAN RAMASAMY, J

Yuva

To

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