



W.P.(MD) No.1364 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.1364 of 2018

S.Nesamani (died)

1.Jothi

2.Veni Mala

... Petitioners

Vs.

1.The Secretary,

Tamil Nadu Construction Workers Welfare Board,
Chennai – 600 034.

2.The Labour Officer,
Social Security Scheme,
Theni.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the first respondent to give prior recommendation for the grant of the monthly pension from the date of eligibility, under Tamil Nadu Construction Workers Welfare Scheme, 1994 to petitioner w.e.f 2011, based on the communication of the second respondent in Na.Ka.No. 488/2015 dated 16.03.2016 and consequently direct the second respondent to pay monthly pension to petitioner w.e.f.2011.

For petitioners : Mr.A.Haja Mohideen

For respondents : Mr.A.Sivanupandian
Government Advocate



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ORDER

This Writ Petition has been filed for the relief of directing the first respondent to give prior recommendation for the grant of the monthly pension from the date of eligibility, under Tamil Nadu Construction Workers Welfare Scheme, 1994 to petitioner w.e.f 2011, based on the communication of the second respondent in Na.Ka.No.488/2015 dated 16.03.2016 and consequently direct the second respondent to pay monthly pension to petitioner w.e.f.2011.

2. In counter affidavit filed by the respondents, the respondents stated as follows:

2. I respectfully submit that during the State Level Labour Officers Review Meeting held on 17-06-2015 it was issued administrative instruction to the Labour Officers (Social Security Scheme) regarding sanction of pension to the registered worker, the age shown in the application and the supporting document such as Aadhar card, ration card etc, if the difference of age falls within 3 years, the application for sanction of pension may be favourably considered and sanction may be accorded. When the difference of age exceeds 3 years, the registered worker shall be asked to appear before the Medical Board, and based on the age certificate issued by the Medical Board, sanction of pension may be accorded. The above decision was communicated by the 1st Respondent in his letter dated 01-07-2015 and it was subsequently approved by the 26th Board Meeting of Tamil Nadu Construction Workers Board vide 1st Respondent's letter dated 13-05-2016.



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10. I respectfully submit that as per letter dated 01-07-2015 issued by the 1st Respondent based on the minutes dated 17-06-2015, the Petitioner was directed to appear before the Medical Board, Government Theni Medical College Hospital, Theni vide letter dated 10-07-2015 of the 2nd Respondent to confirm his age. As per the Certificate issued by the Medical Board after medical examination, the petitioner has completed 60 years of age as on 10-08-2010. Hence he has not completed required period of 5 years continuously for membership for satisfying the eligibility of pension and hence the petitioner is not entitled for pension as per the Scheme. Hence his application was rejected by the 2nd Respondent vide his letter dated 14-10-2015. The petitioner has suppressed the said rejection order passed by this respondent dated 14-10-2015. I respectfully submit that the petitioner has not challenged the said order before any forum. Suppressing the rejection order he has filed the present Writ petition, hence, the Writ petition is liable to be dismissed.

11. I respectfully submit that according to the *clause 13 –Pension Scheme* of the Tamil Nadu Construction Workers Welfare Scheme, 1994, prior to the issue of G.O.Ms.36 Labour and Employment Department dated 28-02-2011, any member who has completed 5 years of continuous membership is only eligible for pension. But as per the medical board's certificate dated 11.08.2015 the Petitioner has completed the age of 60 years in the year 2010 itself. Hence, the Petitioner is not eligible for pension as per the Scheme.



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3. There is no rejoinder to the same.

Considering the same, this Writ Petition stands dismissed. No costs.

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Internet : Yes / No

apd

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C.SARAVANAN, J.

apd

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