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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.9341 of 2012

A.Chand Basha

... Petitioner

V

The Regional P.F. Commissioner II,
Employees' Provident Fund Organisation,
Sub-Regional Office,
No.31, Filter-Bed Road,
Vellore.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari, Mandamus after calling records from the respondent relating to the impugned order dated 16.04.2008 No. TN/VL/RC(PW)/PGHS/2007 and quash the same and direct the respondent to receive the withdrawal benefits as per para 17(2) of the Employees Pension Scheme, 1995.

For Petitioner : Mr. R.Rajaram

For Respondent : Mr. R.Thirunavukarasu

ORDER

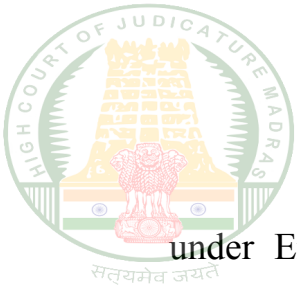
The petition has been filed seeking to quash the order dated 16.04.2008 No. TN/VL/RC(PW)/PGHS/2007 and direct the respondent to



receive the withdrawal benefits as per para 17(2) of the Employees Pension Scheme, 1995.

2. It is the case of the petitioner that he was working under M/s. Mehar and Co., Vellore with effect from 01.01.1992 to 01.10.1999 and he was resigned from service and withdrawn the PF. Accumulation and availed withdrawal benefit under 14 of the EPF Scheme 1995. On 01.04.2000 the petitioner joined in the same respondent and continued till 01.09.2006. Thereafter, the petitioner sent a representation dated 25.03.2008 to the Regional Provident Commissioner, Vellore seeking permission to return the withdrawal benefit availed by him along with interest. However, the request was rejected vide order dated 16.04.2008 stating that the petitioner availed the withdrawal of benefit under para 14 of Employees Pension Scheme 1995. Challenging the same, the petitioner has filed the present writ petition before this Court.

3. The learned counsel for the petitioner submitted that the impugned order is contrary to para 17(2) of Employees Pension Scheme 1995. Totally, the petitioner has rendered more than 10 years of service in Mehar & Company and he was a member of the Employees Provident Fund



under Employees Pension Scheme 1995 and was assigned EPF account

No.TN/VL/23987/48. Therefore, the petitioner is eligible for reduced pension and also eligible for the monthly pension too.

4. The learned counsel for the respondent submitted that as per the petition, the petitioner was joined in the Mehar & Co. from 01.08.1992 to 01.10.1999 and he was paid PF in March 2000. Again he joined the same establishment on 01.04.2000 and he was working till 01.09.2006 and he got EPF benefits under the new EPF in January 2007. As per the provisions of the Employees Pension Scheme 1995, a member is entitled for monthly pension if he completes 10 years of minimum eligible service and has attained the minimum age of 50 years. In the present case, the petitioner has enjoyed the benefits of Pension Scheme by way of getting withdrawal benefit in March 2000 for the first term of his service in terms of Paragraph 17(2) of the Employees Pension Scheme 1995. Therefore, the petitioner is not entitled to get pension as his service cannot be clubbed together. Hence, the learned counsel seeks dismissal of the writ petition.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.



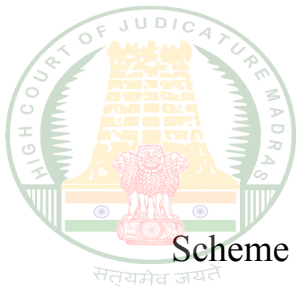
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6. The facts of the case are not in dispute. Admittedly, the petitioner was working in the aforesaid establishment between 01.08.1992 and 01.10.1999 and from 01.04.2000 to 01.09.2006 and he was settled EPF benefits accordingly. He has come by way of filing this writ petition before this Court seeking reduced pension and monthly pension.

7. This Court perused the provisions of the Employees Pension Scheme 1995. On perusal of the same, it is seen that a member is entitled for monthly pension if he completes 10 years of minimum eligible service and has attained the minimum age of 50 years. In the present case, the petitioner has enjoyed the benefits of Pension Scheme in the year 1995 and in the year 2000 along with 8.5% interest in terms of paragraph 17(2) of the employees Pension Scheme 1995.

8. The petitioner has submitted that as per paragraph 17(2) of the Employees Pension Scheme Provided an option to certain category of members to return the withdrawal benefits to receive monthly pension.

For better appreciation, Paragraph 17(2) of the Employees Pension



Scheme 1995 reads as follows:

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Payments on exercise of option – (2) Members referred to in sub-paragraph (2) of Paragraph 7 shall have the option to join the scheme by returning the amount of withdrawal benefits received, if any together with interest at the rate of 8.5% per annum from the date of payment of such withdrawal benefits and date of exercise of the option, to receive the monthly pension as per the provisions of this scheme."

Again, Sub para(2) of Para 7 of the scheme reads, "Members referred to in paragraph 6C who are alive shall have the option to join the scheme as per the provisions of para 17 from the date of exit from the employment.

As regards para 6(c), the persons who are eligible to make option. It reads who ceased to be a member of the employees family pension scheme 1971 between 01.04.1993 and 15.11.1995 and opts to exercise his option under paragraph 7.

9. On reading of the abovesaid provisions, it is clearly seen that those who are the member of the Employees Family Pension Scheme 1971 between 01.04.1993 and 15.11.1995, are the only person who have the option to refund



the withdrawal benefits as they received earlier under the erstwhile Family Pension Scheme to join the New Employees Pension Scheme 1995. Other persons are not eligible to get the option.

10. In the present case, the petitioner has admitted that he had left the service on 01.10.1999 and applied for withdrawal benefits on his own willingness. The option for refund of the benefits for the purpose of clubbing of service or to get membership under the employees Pension Scheme is available only those member who left service between 01.04.1993 and 15.11.1995. In such view of the matter, the petitioner is not absolutely eligible to return the benefit amount along with interest in order to get his earlier service added to his new service and he is not eligible person to get monthly pension.

11. The writ petition filed by the petitioner is totally misconceived and no merits in this case and hence, the same is liable to be dismissed.

12. In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.



05.02.2025

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Index : Yes / No

Speaking order / Non speaking order

Netrual Citation Case : Yes / No

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M.DHANDAPANI, J.

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To

1. The Special Deputy Commissioner of Labour,
D.M.S. Complex, IV Floor,
Teynampet,
Chennai - 600 006.

W.P.Nos. 9341 of 2012

09.08.2023