

(2006) 06 MAD CK 0239

In the Madras High Court

Case No : Writ Petition No. 19013 of 2006 and W.M.P. No. 2 of 2006

A. Sengamalam and Others

APPELLANT

Vs

The Director, Animal Husbandry Department, Regional Joint
Director, Animal Husbandry Department and The Deputy
Director, Animal Husbandry Department

RESPONDENT

Date of Decision : 28-06-2006

Acts Referred:

Tamil Nadu Pension Rules, 1978 — Rule 43(2)

Citation : (2006) 06 MAD CK 0239

Hon'ble Judges : N. Paul Vasanthakumar, J

Bench : Single Bench

Advocate : G. Thangavel, for the Appellant; A. Arumagam, Additional
Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

N. Paul Vasanthakumar, J.—The prayer in this writ petition is to issue writ of mandamus directing the respondents to compute the period for

the pensionary benefits of the petitioners herein in their post as Animal Husbandry Assistant, by including 50% of their service as Casual Labourers

from the date/year of joining service till date of regularisation, i.e. 29.8.1997 etc., along with their regular service period in the Respondents-

Departments, in accordance with the principle judiciously confirmed and enumerated in G.O.Ms. No. 53, Animal Husbandry & Fisheries

Departments dated 27.4.2005.

2. The brief facts necessary for disposal of this writ petition, as stated in the affidavit, are as follows;

(a) There are number of Casual labourers employed on daily wages in the Animal Husbandry Department apart from the regular employees. They

were appointed and posted on the need and necessity in the above firms and institutions.

(b) The first petitioner was appointed on 10.10.1982 and regularised in service on 29.08.1997; The second petitioner was appointed in the year

1972 and regularised on 29.08.1997; the third petitioner was appointed in the year 1974 and regularised on 29.08.1997; the fourth petitioner was

appointed in the year 1964 and regularised on 29.08.97; the fifth petitioner was appointed in the year 1970 and regularised on 29.8.1997; the

sixth petitioner was appointed on 29.05.1972 and regularised on 29.08.97; the seventh petitioner was appointed in the year 1970 and regularised

on 29.08.97; the eighth petitioner was appointed on 18.04.77 and regularised on 29.08.97; the ninth petitioner was appointed on 7.09.72 and

regularised on 29.08.97; the tenth petitioner was appointed on 31.05.83 and regularised on 29.08.97; the eleventh petitioner was appointed on

31.05.82 and regularised on 29.08.97; the twelfth petitioner was appointed in the year 1965 and regularised on 29.08.97; the thirteenth petitioner

was appointed on 19.07.76 and regularised on 29.08.97; the fourteenth petitioner was appointed in the year 1971 and regularised on 29.08.97;

the fifteenth petitioner was appointed on 07.09.82 and regularised on 29.08.97; the sixteenth petitioner was appointed on 13.12.81 and

regularised on 29.08.97; the seventeenth petitioner was appointed on 12.07.72 and regularised on 29.08.97.

(c) According to petitioners as per Rule 43(2) of the Tamil Nadu Pension Rules, a Government servant, to become eligible for pensionary benefits,

the incumbent ought to have completed the qualifying service for ten years of service.

(d) But some of the persons, who are similarly placed, who are deficient in 10 years of service approached the Tamil Nadu Administrative

Tribunal, by filing O.A. No. 3282/99 etc., and the Tribunal passed an order on 20.12.2001 and held that 50% of the period for which the

incumbents worked as casual labourers in the respondent-department shall be taken into account for computing the period of service for

pensionary benefits of such employees, along with the qualifying period of service that is subsequent to the regularisation.

(e) The said order of the Tribunal was challenged by the Government before this Court by filing W.P. No. 1892/2003 and the Division Bench of

this Court dismissed the said writ petition on 23.01.2003 and confirmed the order of the Tribunal dated 20.12.2001. Against the order of the

Division Bench of this Court, SLP was filed and the same was also dismissed.

(f) Thereafter the Government Issued G.O.Ms. No. 53 Animal Husbandry & Fisheries Department dated 27.04.2005 and ordered 50% of the

casual labour period (Service) shall be taken for purpose of pensionary benefits to the said 33 candidates who are the applicants in the said O.A.

Before the Tribunal.

(g) The petitioners herein filed individual representation before the first respondent and the first respondent passed a common order dated

18.10.2005 and stated that the order passed by the Tribunal is applicable only to the 33 persons who are applicants before the Tribunal and it

cannot be applied to the petitioners who are not parties before the Tribunal which is challenged in this writ petition.

3. The learned Counsel for the petitioners submits that the order passed by the Tribunal holding that 50% of the period for which the incumbents

worked as casual labourers in the respondent's department shall be taken into account for computing the period of service for pensionary benefits

is applicable to all similarly placed persons and each and every petitioner need not file separate O.A. or writ petition for claiming the said benefits.

4. The learned Government Advocate is not in a position to state that the petitioners' claim is any way different from that of 33 candidates who

were given relief. Similar issue was considered by the Hon'ble Supreme Court which is reported in State of Karnataka and Others Vs. N.

Parameshwarappa and Others, , in paras 8 and 9 the Supreme Court held as under:

8. ...We do not find any reasonable justification to confine the relief to only such of the teachers who approached the Court and having regard to the

fact that relief related to the revision of scales of pay, every one of that class of teachers who approached would be entitled to the benefit,

notwithstanding that they have not approached the Court. We are in equal agreement with the Division Bench in denying the payment of interest at

compounded rates which, in our view, cannot be justified at all on the facts and circumstances of the case wherein a serious and genuine doubt

existed about the applicability of the Government Order dated 30.3.1990, as

raised in the proceedings.

9. For all the reasons stated above, the appeals filed both by the State as well as by the private respondent teachers fail and shall stand dismissed.

Our declaration to extend the benefits of the Judgments to others who have not approached the Court, but similarly placed is to do complete and substantial justice. No cost.

In yet another decision reported in *Govind Ram Purohit and Anr. v. Jagjiwan Chandra and Ors.* 1999 SCC 788, in para 3, the Honourable

Supreme Court held thus:

3. It was lastly contended by the learned Counsel for the appellants that whereas the petition had been filed by only respondent 1, the High Court

while finally concluding the matter has given a direction to promote all those who were senior to the appellants even though they were not parties to

the petition. Once the High Court had placed a particular interpretation on the Rules, the benefit of that interpretation had to go to all those who

qualified under the seniority-cum-merit rule. There was no point in waiting for each and every person to file a petition. Therefore, we do not see

any reason why we should entertain such a technical plea when the High Court has done substantial justice to all concerned.

5. I have considered the similar issues in W.P. No. 4421/2006 and by Judgment dated 17-04-2006 similar relief was granted, to the persons who

have not approached to Court earlier, following the above said Honourable Supreme Court decisions. The above said Judgment was reported in

2006 MLJ 573 *Balasubramanian v. Food Corporation of India, New Delhi*. Para 16 of the Judgment reads as follows:

16. ...

From the analysis of the judgments cited above, it is beyond doubt and clear that once the point is decided in favour of a group of persons, there is

no further point in waiting for each and every person to file petition and pray for the same relief. As held by the Honourable Supreme Court, the

benefit of the judgment is equally applicable to similarly placed persons to do complete and substantial justice.

6. Following the above said Judgments, the impugned order is set aside and the writ petition is allowed as prayed for. The respondents are

directed to count the 50% of the Casual Labour Services rendered by the

petitioners for the purpose of pensionary benefits and orders to that effect shall be passed within 6 weeks from the date of receipt of copy of this order. No costs. Consequently, connected WPMP is closed.