

**Central Administrative Tribunal
Madras Bench**

OA/310/01189/2018

Dated Wednesday the 5th day of September Two Thousand Eighteen

P R E S E N T

Hon'ble Mr. R.Ramanujam, Member(A)

V. Jeevarathinam
No. 10, 3rd Cross, Gandhi Nagar
Thattanchavady Post
Puducherry – 9.

.. Applicant

By Advocate **M/s. V. Ajayakumar**

Vs.

1. Union of India
Rep. by the Government of Puducherry
Through the Secretary to Government for Public Works
Chief Secretariat
Puducherry.

2. The Chief Engineer
Public Works Department
Puducherry.

.. Respondents

By Advocate **Mr. R. Syed Mustafa**

ORAL ORDER

Pronounced by Hon'ble Mr.R.Ramanujam, Member(A)

Heard. The applicant has filed this OA seeking the following relief:-

“To call for the records of the respondents with No. 16712/PW/PHD/Estt./ES.4/2018/9225 dated 20.06.2018 and to quash the same and consequently to direct the respondents to grant the benefit of 50% of the service rendered by the applicant from his initial appointment in Oulgaret Commune Panchayat on 31.03.1984 till the regularisation of service in P.W.D. and to recalculate and pay the pension and other benefits with retrospective effect and to pass such other or further orders”

2. It is submitted that the applicant was aggrieved by Annexure A9 impugned order dated 20.06.2018 by which his representation dated 29.01.2018 requesting for counting of service rendered on Daily Rated basis in the then Oulgaret Commune Panchayat from 31.03.1984 to 31.03.1998 as qualifying service for retirement benefits was rejected on the ground that the Directorate of Treasuries and Accounts had opined that specific orders were required for counting of such service prior to appointment in the Public Works Department, Puducherry as qualifying service for retirement benefits and in the absence of a specific GO, the applicant's request could not be considered.

3. It is alleged that the applicant was appointed on temporary basis as Over Head Tank Operator w.e.f. F.N on 31.3.1984 by Annexure A1 order dated 16.04.1984. Later, the applicant was transferred to Public Works Department w.e.f. 01.04.1988. The applicant retired on superannuation on 31.05.2016 as Senior

Mechanic in PWD. However, his pension papers showed neither the date of his appointment as Over Head Tank Operator in Oulgaret Municipality nor the date of his transfer to the PWD. On the other hand, an entirely different date namely 14.05.1992 was shown as the date of entry into Government Service. The total length of qualifying service has been indicated as 26 years one month and 9 days therein and it is not clear as to how the same was arrived at.

4. Learned counsel for the applicant would draw attention to the seniority list of casual labourers in Public Works Department issued on 23.10.1989 in which one S. Devarasu was shown to be immediately above the applicant with date of engagement as 05.07.1983. It is alleged that the said Devarasu had been allowed to count his services rendered as Water Tank Operator in Pondicherry Municipality Oulgaret Commune Panchayat as qualifying service and, therefore, the applicant being similarly placed could not be discriminated against. If any GO was required specifically for counting of 50% of the daily rated service prior to appointment in Public Works Department, Pondicherry, it is for the respondents to obtain the same from the competent authority and it could not be held as a ground for rejection of the applicant's representation, it is contended.

5. Mr R. Syed Mustafa takes notice for the respondents.

6. I have considered the matter. Clearly, Annexure A9 impugned order dt. 20.06.2018 rejecting the claim of the applicant is a non-speaking order in as much as the points raised by the applicant in his representations dated 12.07.2016, 22.02.2017, 05.01.2018 and 29.01.2018 are not answered. Under such circumstances, I am of the view that this OA could be disposed of with the

following direction:

“The competent authority shall examine the points raised by the applicant in his representations including that relating to alleged discrimination vis-a-vis the said Devarasu and pass a reasoned and speaking order on the claim of the applicant to treat services rendered by him as Over Head Tank Operator at Oulgaret Commune Panchayat from 31.03.1984 till date of entry into the PWD as qualifying service for pension etc., within a period of two months from the date of receipt of copy of this order. In case the said Devarasu had been allowed to count a similar period as qualifying service and the applicant's claim is still proposed to be rejected, the order shall distinguish the facts and circumstances of the two cases.”

7. OA is disposed of at the admission stage.

(R.Ramanujam)
Member(A)
05.09.2018

AS