IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 29.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.34503/2015

M.Ethiraj ..Petitioner

Vs

1.The Secretary to Government
Government of Tamilnadu
Revenue Department,
Secretariat, Chennai 600 009.

2.The Principal commissioner for
Revenue Administration, Chepauk
Chennai 600 015.

3.The District Collector
Vellore, Vellore District. ..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents to take into account half of the services of the petitioner on daily wage basis as Headman from 09.08.1981 to 01.06.1995 along with regular Government service from 01.06.1995 to 30.06.2014 for arriving at net qualifying service for pension and submit revised pension proposal to the Accountant General for authorisation and to disburse the arrears thereof with interest as per rules.

For Petitioners : Mr.T.Dharani

For Respondents : Mr.R.Vijayakumar, AGP

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner would state that he served as Headman on daily wage basis from 09.08.1981 to 01.06.1995 and pursuant to G.O.Ms.No.625 Revenue Department dated 06.07.1995, he was appointed as Village Assistant on regular basis and he has also completed one year of probation and was granted increments in the post of Village Assistant. The petitioner,

on attaining the age of superannuation, was permitted to retire from service on 30.06.2014. The Principal Accountant General of Tamil Nadu has also authorised pensionary benefits by taking into account the petitioner's services as Village Assistant from 01.06.1995 to 30.06.2014 and however, the services rendered by him as Village Headman on daily wage basis from 09.08.1981 to 01.06.1995 has not been taken into account for grant of pensionary benefits. The petitioner would state that as per G.O.Ms.No.408, Finance [Pension] Department dated 25.08.2009, half of the service rendered in non-provincialised service on consolidated pay, Honararium and Daily Wages after 01.01.1961 shall be taken into account for pensionary benefits for those absorbed in regular Government Service prior to 01.04.2003 subject to conditions. Since the petitioner has satisfied all the conditions, he is entitled to get the benefits. In this regard, he has also submitted a representation dated 17.04.2015 and since no orders have been passed, he came forward to file this writ petition.

3 Learned counsel for the petitioner would submit that the matter in issue is squarely covered by the judgment rendered by a Division Bench of this Court reported in 2014 [2] CTC 777 [Union of India Vs. K.Punniyakotti and others], wherein it has been held that the right to receive pension, Gratuity or Leave Encashment can be treated as Right to Property in terms of Article 300-A of the Constitution of India and has further observed that the new pension scheme applicable only to persons appointed for the first time on or after 01.01.2004 and the benefit of counting of 50% of the service have to be done for conferment of pensionary benefits.

4 This Court heard the submissions of Mr.R.Vijayakumar, learned Additional Government Pleader who accepts notice on behalf of the respondents.

5 This Court, in the light of the above facts and circumstances, directs the 1st respondent to consider and dispose of the petitioner's representation dated 10.04.2015 on merits and in accordance with law and pass orders within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

6 The writ petition is disposed of accordingly. No costs.

sd/
ASSISTANT REGISTRAR(CCC)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

AP

To

1.The Secretary to Government
Government of Tamilnadu
Revenue Department,
Secretariat, Chennai 600 009.

2.The Principal commissioner for
Revenue Administration, Chepauk
Chennai 600 015.

3.The District Collector
Vellore, Vellore District.

+1 CC to MR.T.Dharani Advocate. SR.NO.58955
+1 CC to Govt.Pleader. SR.NO. 59280

W.P.No.34503/2015

CO-GJ
JD 26/11/2015