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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2015

CORAM:
THE HONOURABLE MR.JUSTICE T.RAJA
W.P(MD)No.2745 of 2015

P.Mehalingam ... Petitioner

Vs.

1.The Principal Accountant General,
Tamil Nadu, 361, Anna salai,
Chennai- 600 018.

2.The Tahsildar,
Bodinayakkanur Taluk,,
Theni District. ... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to impugned order of the first respondent in the Na.Ka.Pen 2014/12618212/14-15/ADK and second respondent, Na.Ka.4408/2014/A1, dated 21.01.2015 and quash the same and direct the Respondent to grant the minimum pension for the petitioner's Village Administrative Officer Service from the date of Retirement on 01.06.2008

For Petitioner : Mr.P.Mehalingam
Party-in-person
For R1 : Mr.P.Gunasekaran
For R2 : Mr.R.Anandharaj
Govt. Advocate

O R D E R

This writ petition has been filed by Mr.P.Mehalingam, seeking issuance of Writ of Certiorarified Mandamus to call for the records relating to impugned order of the first respondent, The Principal Accounts General, Tamil Nadu, in the Na.Ka.Pen 2614/12618212/14-15/ADK, dated 26.12.2014, in which, it has been stated that as the petitioner's name is not included in the G.O.Ms.No.148 Revenue (Ser(8(2) Department, dated 20.04.2011 and the request of the petitioner for payment of minimum pension was refused and the one another impugned order, dated 13.01.2015, the consequential order reiterating that in view of not possessing the minimum years of service, the petitioner was informed that he was not entitled to get minimum pension.

2.Heard Mr.P.Mehalingam, Party-in-person, Mr.P.Gunasekaran, learned counsel appearing for the first respondent and Mr.R.Anandharaj, learned Government Advocate appearing for the second respondent.

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3.The petitioner was serving as Village Headman in the Revenue Department, Devaram, Uthamapalayam Taluk now Theni District from 13.03.1974. It is an admitted fact that the Government after abolishing the entire post of Village Headman on 14.11.1980, he was appointed as Village Administrative Officer on 11.11.2000 with a gap of 20 long years. Subsequently, on reaching the age of superannuation, he was relieved from service on 31.05.2008. Therefore, the grievance of the petitioner is that he is entitled to get minimum rate of pension, but in the G.O.Ms.No.148 Revenue (Ser(8(2) Department, dated 20.04.2011 prepared for payment of minimum pension, his name was not shown inadvertently. Therefore, he was refused the payment of minimum pension.

4.As a matter of fact, the Government has issued G.O.Ms.No.756 Revenue Department, dated 17.08.1993, making it clear that a person after abolition of Village Headman posts, if he is re-appointed and served with 10 years of service is entitled to get minimum rate of pension. Therefore, if he is originally appointed as Village Headman on 13.03.1974, in the light of the G.O.Ms.No.756, the case of the petitioner has to be considered. It is not in dispute that, the petitioner was originally appointed as Village Headman on 13.03.1974 and lost his service due to abolition of Village Headman. However, he was appointed as Village Administrative Officer on 11.11.2000. After his appointment, on reaching the age of superannuation, he retired from service on 31.05.2008. In paragraph 3 of the Government Order applies to the case of the petitioner, for, the petitioner has rendered more than 10 years of service, therefore, his name ought to have been included as per G.O.Ms.148 prepared by the respondent for payment of minimum pension to all the retirees. Since the admitted position of the petitioner has been completely over-looked, the case of the petitioner deserved to be considered positively.

5.Even in the counter affidavit filed by the first respondent also shows that the Government has relaxed the rules by issuing G.O.Ms.756 dated 17.08.1993 and one another G.O.Ms.875, Revenue Department, dated 29.10.1998 stating that Ex-Village Officers like, Karnam, Munsif Village Headman, etc., who were retrenched on 14.11.1980 and got subsequent reappointment as Village Administrative Officers, but retired before completing 10 years of service in the post of Village Administrative Officer, may be considered for pension by calculating the period of service from 14.11.1980, instead of calculating the service from the date of appointment as Village Administrative Officer. In this regard, the Government identified the eligible officials through 3 lists of Ex-Village Administrative Officers as under:-

1.Additional Commissioner, Revenue Administration letter No.RA 2 (2) 63008/07 dated 17.02.2009.

2.G.O.665 Revenue Department, dated 10.02.2010.

3.G.O.148 Revenue Department, dated 20.04.2011.

Since eligible persons were already identified by the Government in the aforementioned three Government Orders for grant of minimum pension of Rs.3,050/- per month, the petitioner, who was working as Village Headman between 13.03.1974 to 14.11.1980, the date on which, the hereditary post was abolished was re-appointed as Village Administrative Officer and it is seen that the petitioner was retired from service on 31.05.2008, therefore, indisputably, the petitioner is entitled to get the benefit

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G.O.Ms.756 Revenue Department, dated 17.08.1993 by calculating the service from 14.08.1995 till the date of retirement namely 31.05.2008.

6.The said exercise was completely failed to be followed. Therefore, this Court has no hesitation to direct the second respondent herein, the Tahsildar to prepare a pension proposal in the light of the G.O.Ms.No.756, Revenue Department, dated 17.08.1993 and forwarded the same to the Commissioner of Revenue Administration, within a period of four weeks from the date of receipt of a copy of this order, who in turn shall forward the same to the first respondent with all remarks and thereafter, it is for the first respondent to consider and complete the entire exercise within a period of four weeks thereafter. The petitioner is also directed to send a copy of this order to the Commissioner, Revenue Administration, within a period of one week from the date of receipt of a copy of this order for his reference.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To
1.The Principal Accountant General,
Tamil Nadu, 361, Anna salai,
Chennai- 600 018.

2.The Tahsildar,
Bodinayakkanur Taluk,,
Theni District.

+2cc to Mr.P.Mehalingam, Party in Person SR.No.52217
+1cc to Mr.P.Gunasekaran, Advocate SR.No. 53154
+1cc to The Special Government Pleader, Madurai. SR.No.52520

W.P.(MD)No.2745 of 2015

07.09.2015

AM
NS/GSV/SAR I/23.11.2015 : 3P/7C

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