

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2016

CORAM :

THE HONOURABLE Mr.JUSTICE R.SUBBIAH

W.P.No.38960 of 2014

M.Alagarsamy

... Petitioner

Vs.

1.The Government of Tamil Nadu,
rep. by its Secretary,
Revenue Department,
Fort st.George, Chennai-600 009.

2.The State of Tamil Nadu,
rep. by its Secretary,
Finance (Pension) Department,
Fort St.George, Chennai-600 009.

3.The Revenue Divisional Officer,
Periyakulam @ Thanmaraikulam,
Periyakulam Taluk,
Theni District.

4.The Tahsildar,
Periyakulam, Theni District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 1st respondent to consider and pass orders on the petitioner's representation dated 10.12.2012 directing the 1st respondent to take the 50% service rendered on consolidated pay for the purpose of pension based on G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009, which provides for reckoning with regard to grant of pension in the light of G.O.Ms.No.408 Finance (Pension) Department, dated 25.08.2009, within a stipulated time as fixed by this Court.

For Petitioner : Mr.V.Thirupathi

For Respondents : Mr.N.Srinivasan, AGP

ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Mandamus, directing the 1st respondent to consider and pass orders on the petitioner's representation dated 10.12.2012 with regard to taking 50% service rendered by the petitioner on consolidated pay, for the purpose of pension based on G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009, within a time frame.

2. In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1. The petitioner was appointed as Village Assistant, at Gunguvarpatti, on 14.05.1974, on consolidated pay by the proceedings of the 3rd respondent bearing No.Ni.Mu.24852/73, dated 06.05.1974. Subsequently, the 3rd respondent by his proceedings in Na.Ka.No.1727/97/A7, dated 18.09.1997, passed an order regularizing the petitioner's service with effect from 01.06.1995 on the basis of G.O.Ms.No.625, Revenue Department, dated 06.07.1995 and consequently, fixed the time scale of pay at Rs.600-10-750/-, for him. The 3rd respondent by his proceedings in Na.Ka.1727/97/A1, dated 18.09.1997 passed an order of completion of his probation period on 31.05.1996. While so, the petitioner attained the age of superannuation on 30.11.1998 and the 3rd respondent by his proceedings in Na.Ka.No.2540/98/A1, dated 27.11.1998 passed an order, relieving the petitioner from service on 30.11.1998 on reaching the age of superannuation.

2-2. The petitioner has worked from 14.05.1974 to 31.05.1995 on consolidated pay and regular time scale of pay from 01.06.1995 to 30.11.1998 and thus, totally, he had put in 24 years and 6 months of service. The petitioner had applied for payment to retirement benefits, but the Assistant Collector, Periyakulam vide his proceedings in Roc.No.2235/99/AZ, dated 03.06.1999 informed the petitioner that framing of rules governing the sanction of pension to the Village Assistant, who retired after 01.06.1995 is pending. However, under Rule 14(4) of the Tamil Nadu Government Village Servants Services Rules, 1980, sanctioned Rs.28,102/- as a temporary relief measure towards retirement benefit due amount, pending receipt of further orders from the Government.

2-3. It is stated by the petitioner that the Government has issued orders in G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009 with regard to reckoning 50% of the service for calculating pension. The sum and substances of the said GO is that under the Tamil Nadu Pension Rule 11(2), in respect of the persons who are in Government service under non-provincial service, consolidated pay, honorarium and daily

wages, their services cannot be taken for the purpose of calculating pension. The period prior to their regularisation is not being taken into account resulting in a serious anomaly. Therefore, on a humanitarian consideration, the Government has thought it fit to pass the said G.O. As per the said GO, persons who were employed after 01.01.1961 on a non-provincial service, consolidated pay, honorarium and daily wages and who were observed into regular service prior to 01.04.2003, half of their entire period of service prior to regularisation could be added for the purpose of calculating pension. The concerned department heads were directed to calculate the number of years of service for the purpose of pension eligibility and pension calculation based on the above guidelines.

2-4. According to the petitioner, the petitioner is eligible for pension by counting 50% of service rendered on consolidated pay basis as per the G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009. In this regard, the petitioner has given a representation dated 10.12.2012 to the respondents seeking to take into account 50% of service rendered by him on consolidated pay basis as per the said GO. Since the petitioner's representation was not considered, the petitioner has come forward with the present writ petition.

3. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

4. Considering the limited scope of the prayer sought for by the petitioner in this writ petition, this Court directs the 1st respondent to consider the representation dated 10.12.2012 given by the petitioner, in the light of G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009, and to pass orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. It is made clearly that this Court has not expressed any opinion on the merits of the claim made by the petitioner and it is for the 1st respondent to pass orders purely on merits.

With the above direction, this writ petition is disposed of. No costs.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

1.The Secretary,
Government of Tamil Nadu,
Revenue Department,
Fort st.George, Chennai-600 009.

2.The Secretary,
State of Tamil Nadu,
Finance (Pension) Department,
Fort St.George, Chennai-600 009.

3.The Revenue Divisional Officer,
Periyakulam @ Thanmaraikulam,
Periyakulam Taluk, Theni District.

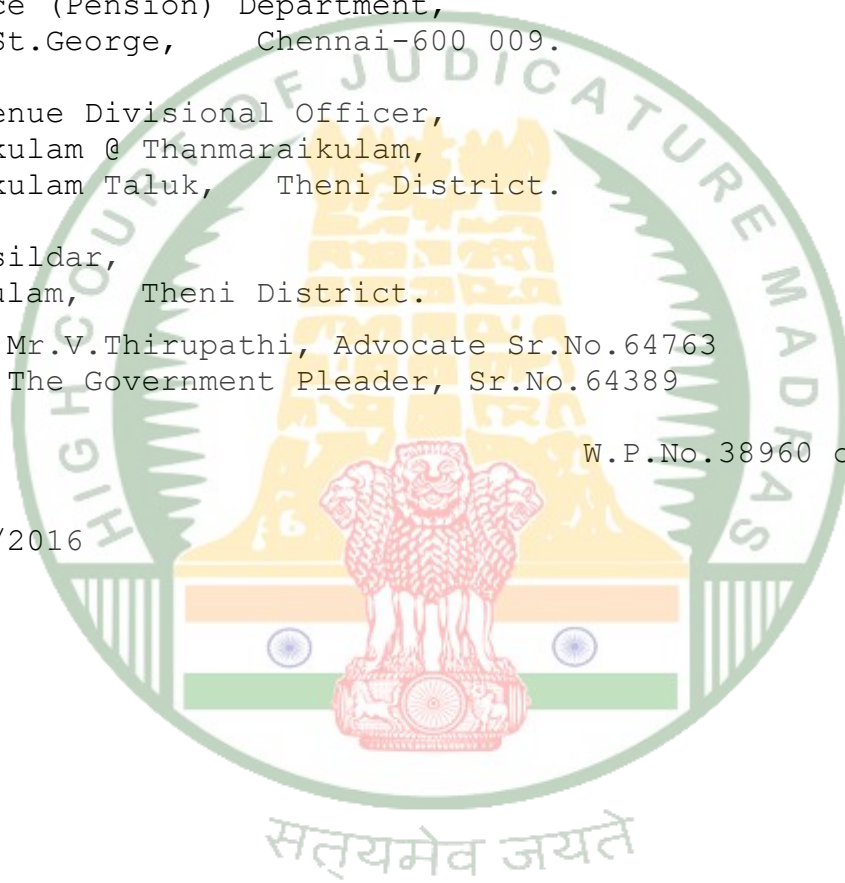
4.The Tahsildar,
Periyakulam, Theni District.

+ 1 cc to Mr.V.Thirupathi, Advocate Sr.No.64763
+ 1 cc to The Government Pleader, Sr.No.64389

W.P.No.38960 of 2016

CO/SUI

RRI 29/12/2016



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