



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2016

CORAM

**THE HONOURABLE MR.JUSTICE T.RAJA**

W.P. (MD).Nos.21139 to 21145 of 2014

WEB COPY

|                  |                                       |
|------------------|---------------------------------------|
| Sankaranarayanan | ... Petitioner in WP (MD) No.21139/14 |
| Raman            | ... Petitioner in WP (MD) No.21140/14 |
| Veerachamy       | ... Petitioner in WP (MD) No.21141/14 |
| Balaguru         | ... Petitioner in WP (MD) No.21142/14 |
| Rajagopal        | ... Petitioner in WP (MD) No.21143/14 |
| Murugan          | ... Petitioner in WP (MD) No.21144/14 |
| Karuppan         | ... Petitioner in WP (MD) No.21145/14 |

Vs.

1.The State of Tamil Nadu,  
Represented by its Principal Secretary  
to Government, Revenue Department,  
Fort.St.George,  
Chennai - 600 009.

2.The District Collector,  
Virudhungar District.

3.The Accountant General (A&E),  
Pension, 391, Anna Salai,  
Chennai.

... Respondents in all Writ Petitions

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 3<sup>rd</sup> respondent in letter No.AG(A & E) legal Cell/WP(MD) 11094-11101/2008/1178 dated 17.9.2014 quash the same and consequently direct the respondents to sanction and pay him pension by taking into account of service rendered by him prior to 01.06.1995 in the post of Village Assistant.

|                                          |                                        |
|------------------------------------------|----------------------------------------|
| For petitioners<br>in all Writ Petitions | : Mr.A.Rahul                           |
| For R.1&2<br>in all Writ Petitions       | : Mr.M.Murugan,<br>Government Advocate |
| For R.3<br>in all Writ Petitions         | : Mr.P.Gunasekaran                     |

**COMMON ORDER**

Since the issue raised in all the Writ Petitions is one and the same, they have been taken up together and disposed of, by this common order:

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2. Challenging the orders of the third respondent dated 17.09.2014, in any by which, the request for revision of pension, was



rejected by the respondents on the ground that the benefit granted through W.P.(MD).No.11094-11101 of 2008 dated 06.03.2009 cannot be extended to the petitioners herein, as the petitioners therein, namely, W.P.(MD).No.11094-11101 of 2008 has got specific direction from this Court to consider their case. Aggrieved by the same, the petitioners are before this Court.

3. The learned counsel for the petitioners has submitted that the issue involved in all the Writ Petitions is no more *res integra*. The Division Bench of this Court has already given a quietus to all these matters in W.A.(MD).No.204 to 211 of 2011 dated 14.02.2011. The said judgment has attained finality. When that being so, the orders impugned in all these Writ Petitions are liable to be set aside.

4. Heard the submissions made on behalf of the respondents.

5. As rightly pointed out by learned counsel for the petitioners the issue involved in all these Writ Petitions were extensively discussed by the Division Bench of this Court in W.A.(MD).No.204 to 211 of 2011 dated 14.02.2011. Therefore, this Court deems it appropriate to extract the order passed in W.A.(MD).No.204 to 211 of 2011 dated 14.02.2011. In the said judgment, the claim of the respondents therein was negatived by the Division Bench of this Court, which is extracted below:-

"9. It is useful to refer to Rule 11 of the Tamil Nadu Pension Rules, 1978, which deals with commencement of qualifying service for pensionary benefits, which reads as follows:-

"11. Commencement of qualifying service - Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity. In the case of a Government servant retiring on or after the 1<sup>st</sup> October, 1969, temporary or officiating service in a pensionable post whether rendered in a regular capacity or not shall count in full as qualifying service even it is not followed by confirmation."

10. A cursory reading of the above rule makes it manifestly clear that the qualifying service of a Government servant commences from the date on which he takes charge of the post, to which he is first appointed either substantively or in an officiating or in temporary capacity.

11. A similar issue came up for consideration before a Division Bench of this Court in **W.A.(MD).No.363 of 2010 [The Tahsildar, Vs. Esakki and others]** and by Judgment dated **20.08.2010**, the Division Bench, following the Judgment of the Supreme Court in the case of **A.P.Srivastava v. Union of India and ors.**, reported in **1996 (1) LLJ 241** and also the order of this Court in **Chinna Alagi, O.A. v. State of Tamil Nadu** reported in **2006 (5) CTC 320**, dismissed the Writ Appeal filed by the Government.



12. In view of the said settled position of law and the Pension Rules, as stated supra, we do not find any infirmity in the order passed by the learned Single Judge. Therefore, the Common Order dated 06.03.2009 made in W.P.(MD).Nos.11094, 11095, 11096, 11097, 11098, 11099, 11100 and 11101 of 2008 is confirmed and these Writ Appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed."

6. Following the Division Bench order of this Court, I have also allowed a batch of Writ Petitions in W.P(MD).Nos.6905 to 6908 of 2016 dated 12.07.2016. Therefore, having lost before the learned Single Judge as well as before the Division Bench of this Court, it is not open to the respondents to deny the benefits to these petitioners too. It is pertinent to point out that when the respondents had already complied with the orders passed by this Court, in certain cases, in my considered view, the case of the petitioners, is also squarely covered by the observation made by the Honourable Division Bench of this Court in the above mentioned batch of W.A(MD)Nos.204 to 211 of 2011, dated 14.02.2011 and they are also entitled to get the benefit of G.O.Ms.No.173 Revenue (Ser8(1) Department, dated 29.05.2014.

7. In the result, the impugned orders in all these Writ Petitions are liable to be set aside and accordingly, it is set aside. All the Writ Petitions are allowed and the respondents are directed to give the benefit of G.O.Ms.No.173 Revenue (Ser8(1) Department, dated 29.05.2014. In other words, the respondents are directed to sanction and pay pension to the petitioners herein by taking into account the service rendered by them prior to 01.06.1995 in the post of Village Assistants. Such exercise shall be done, within a period of eight weeks from the date of receipt of a copy of this order. No Costs.

Sd/  
Assistant Registrar(AS)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Principal Secreter to Government,  
The State of Tamil Nadu,Revenue Department,  
Fort.St.George,Chennai - 600 009.

2.The District Collector,Virudhungar District.

3.The Accountant General (A&E),  
Pension, 391, Anna Salai,Chennai.

+7ccs to M/S.A.Rahul, Advocate in SR.No.37100,37101,37095 to 37099

+1cc to Special Government Pleader in SR.No.37257

+1cc to M/S.P.Gunasekaran, Advocate in SR.No.37209

W.P(MD).Nos.21139 to 21145 of 2014  
15.07.2016

ssm

PA/SK-SKN/SAP-I/03.08.2016/3P/13C  
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