



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2016

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.20869 of 2016

Muthammal

: Petitioner

Vs.

1.The State of Tamil Nadu rep. by its
Secretary to Government,
Revenue Department,
Fort St. George, Chennai - 9.

2.The District Collector,
Virudhunagar District.

3.The Tahsildar,
Sathur Taluk,
Virudhunagar District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to sanction and pay the pension arrears of the petitioner's deceased husband Late.Karuppan for the period from 01.05.2000 to 01.10.2010 and family pension arrears from 02.10.2010 to till date to the petitioner by taking into account the service rendered by her husband in the post of Village Assistant prior to his regularization dated 01.06.1995 for the purpose of pension computation within the time limit that may be fixed by this Court.

For Petitioner : Mr.A.Rahul

For Respondents : Mr.A.Muthukaruppan,
Additional Government Pleader.

O R D E R

This writ petition has been filed for issuance of a Writ of Mandamus, directing the respondents to sanction and pay the pension arrears of the petitioner's deceased husband Late.Karuppan for the period from 01.05.2000 to 01.10.2010 and family pension arrears from 02.10.2010 to till date to the petitioner by taking into account the service rendered by her husband in the post of Village Assistant prior to his regularization dated 01.06.1995 for the purpose of pension computation.



2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who took notice for the respondents. By consent, the writ petition itself is taken up for final disposal.

3. The case of the petitioner is that the husband of the petitioner joined as Village Assistant on 28.11.1967 and retired from service on 30.04.2000. He died on 01.10.2010. All the Village Assistants in the State were given regularization w.e.f. 01.06.1995. Therefore, the petitioner seeks for a direction to the respondents to count the services rendered by her husband in temporary capacity in the post of Village Assistant prior to 01.06.1995 for the purpose of pension.

4. When the matter is taken up for hearing, the learned counsel appearing for the petitioner would submit that the issue involved in the writ petition has already been decided by this Court in W.P (MD) Nos. 11094 to 11101 of 2008 and in W.A (MD) No. 204 to 211 of 2011, dated 14.02.2011. By a common Judgment dated 14.02.2011, the Hon'ble Division Bench of this Court, relying on Rule 11 of the Tamil Nadu Pension Rules, held that 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 substantially or in an officiating or in temporary capacity. As against the same, the Special Leave Petition Nos. 26586 to 26593 of 2012 were filed before the Hon'ble Supreme Court and the same were also dismissed. In the light of the dismissal of Special Leave Petitions, the first respondent Department issued an order in G.O. (MS) No. 173, Revenue Department, dated 29.05.2014 to pay pension to the above said 8 Village Assistant by taking into account their services rendered by them prior to 01.06.2016.

5. The learned Additional Government Pleader has not disputed the above said submission made by the learned counsel for the petitioner.

6. Therefore, in the light of the Judgment passed in W.A (MD) No. 204 to 211 of 2011, dated 14.02.2011, the writ petition is allowed and the respondents are directed to give the benefit of G.O. Ms. No. 173, Revenue (Ser 8(1)) Department, dated 29.05.2014 and to sanction and pay pension to the petitioner by taking into account the service rendered by the petitioner's husband prior to 01.06.1995 in the post of Village Assistant. Such exercise shall be done within period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (AE)

/True copy/



To

1.The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 9.

2.The District Collector,
Virudhunagar District.

3.The Tahsildar,
Sathur Taluk,
Virudhunagar District.

+1cc to MR.A.Rahul, Advocate SR.No.64714

smn

sm:KM:18/11/2016:3P/5C

ORDER MADE IN
W.P (MD) No.20869 of 2016
01.11.2016