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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2016

CORAM :

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD)No.21283 of 2016

Nallakaruppa Thevar

... Petitioner

Vs.

1. The Secretary to Government,
Revenue Department,
Fort St.George,
Chennai - 9.
2. The Accountant General,
361, Anna Salai, Chennai.
3. The Revenue Divisional Officer,
Usilampatti,
Madurai District.
4. The Tahsildar,
Office of Tahsildar,
Thirumangalam,
Madurai District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the 4th respondent herein passed in Na.Ka.No.439/2016/A2 dated 27.09.2016 and quash the same consequentially directing the respondents to issue pension to the petitioner by way of counting 50% of petitioner's prior service of regularization along with regular service for grant of pension on the basis of his total service revised pension, DCRG, arrears and all other monetary benefits accrued thereon to the petitioner from the date of his retirement.

For Petitioner : M/s.K.Abiya
For RR - 1, 3 & 4 : Mr.M.Murugan
Government Advocate
For R - 2 : Mr.P.Gunsekaran

O R D E R

<https://hcservices.ecourts.gov.in/hcservices/>
This Writ of Certiorarified Mandamus has been filed to quash the proceedings issued by the fourth respondent dated 27.09.2016 and consequently direct the respondents to issue pension to the



petitioner by way of counting 50% of the petitioner's prior service of regularisation along with regular service for grant of pension and other monetary benefits.

2. Heard the learned counsel for the petitioner; the learned Government Advocate, who takes notice for the respondents 1, 3 and 4 and the learned Standing Counsel for the second respondent. By consent, this writ petition is taken up for final disposal at the stage of admission.

3. The brief facts leading to the filing of the Writ Petition are as follows:

The petitioner is a retired Village Assistant, having been appointed to the post of Village Assistant on 09.09.1974. His service was regularised on 01.06.1995 in the very same post. He retired from service on 31.01.2000. The petitioner's regular service period i.e., from 01.06.1995 to 31.01.2000 alone was counted by the fourth respondent and the service rendered by the petitioner for the period from 09.09.1974 to 01.06.1995 was not taken into account and therefore, the fourth respondent denied the pension to the petitioner. This is under challenge in this Writ Petition.

4. The learned counsel for the petitioner would submit that despite the petitioner filing a Writ Petition in WP(MD)No.11965 of 2009, in which this Court directed the respondents therein to consider the petitioner's claim, the respondents did not pass any orders.

5. It is further submitted that a similar claim made by the similarly placed person was considered by this Court in WP(MD) No.7699 of 2007 dated 05.11.2008 and the respondent therein was directed to process the pension papers of the petitioners and issue appropriate consequential orders. It is also submitted that the Revenue Department has filed an appeal WA(MD)No.16 of 2009 stating that the Village Assistants those who have not completed 10 years of service are not eligible to get pension and the same was dismissed by the Division Bench of this Court on 16.02.2009.

6. The learned counsel has also relied upon G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009, whereunder it is stated that the persons who have rendered 50% of service even in the capacity of temporary employees or those who received Honorarium and also daily wages, should be regularised on or before 01.04.2003.

7. It is not in dispute that G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009 is applicable to the case of the petitioner also.

8. In this case also, service of the petitioner has not been regularised prior to the period 2003, (cut off date as prescribed in the G.O.) i.e., from 09.09.1974 to 01.06.1995.



9. Therefore, in the light of the orders passed by this Court in the Writ Petition as well as in the Writ Appeal and also in the light of G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009, the claim of the petitioner ought to have been accepted.

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10. Accordingly, the impugned proceedings issued by the fourth respondent dated 27.09.2016, refusing to count 50% of the petitioner's service is hereby set aside.

11. The fourth respondent is directed to count 50% of the service rendered by the petitioner prior to regularisation (i.e., prior to 01.06.1995) and award pension according to the claim made within a period of six weeks from the date of receipt of a copy of this order.

12. The Writ petition is ordered accordingly. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 9.
2. The Revenue Divisional Officer,
Usilampatti,
Madurai District.
3. The Tahsildar,
Office of Tahsildar,
Thirumangalam,
Madurai District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 66622
+ 1 CC TO Mr.K.ABIYA, ADVOCATE IN SR No. 66350

MJ

TE/BS : 20/02/2017 : 3P/6C

W.P (MD) No. 21283 of 2016
07.11.2016