



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.(MD)No.1046 of 2017

and

C.M.P.(MD).Nos.7312 and 7313 of 2017

1.The Principal Secretary to Government,
Revenue Department,
Secretariat,
Chennai - 600 009.

2.The Additional Chief Secretary
and Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai - 600 005.

3.The District Collector,
Sivagangai District,
Sivagangai.

.. Appellants

Vs.

V.Gurusamy

.. Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, against the order dated 12.07.2016 made in W.P.(MD).No.7448 of 2016, on the file of this Court.

Prayer in WP(MD). 7448/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first respondent i.e., the Principal Secretary to Government, Revenue Department, Chennai to refix the pension of the petitioner counting the services put in by him as Thalayari for the period from 11.05.1981 to 31.05.1995 within a specified time frame that may be fixed by this Honourable Court.



For Appellants : Mr.T.S.Mohamed Mohideen
Additional Government Pleader

For respondent : Mr.S.Visvalingam

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JUDGMENT

[Judgment of the Court was delivered by G.R.SWAMINATHAN, J.]

The Government of Tamil Nadu is on appeal, questioning the order dated 12 July 2016, whereby W.P.(MD).No.7448 of 2016 was allowed.

2.The said writ petition was filed by the respondent herein seeking a direction for sending a revised pension proposal by including half of the service put in by him as Thalayari for the period from 11 May 1981 to 31 May 1995.

3. According to the petitioner, he was serving as Office Assistant in Taluk Office, Melur and he reached the age of superannuation on 31 July 2015. But, when sending his pension proposals, only the period of service rendered by him in regular time scale of pay i.e. from 01 June 1995 to 31 July 2015 was taken into account for sanction of pension. The continuous service of 14 years on consolidated pay put in by him as permanent Thalayari was not at all considered for the purpose of calculating pension. Seeking revision of his pension, he filed the said W.P.(MD).No. 7448 of 2016. The learned single Judge noted that the issue was no longer res-integra. Following the earlier Division Bench decision of this Court in W.A.(MD).No.303 of 2010, the said W.P.(MD).No. 7448 of 2016 was allowed by directing the appellants herein to sanction and pay pension to the writ petitioner by taking into account the service rendered by him prior to 01 June 1995 in the post of Village Assistant/Thalayari.

4. Before us, the learned Additional Government Pleader appearing for the appellants contended that the writ petitioner was working only as part-time Thalayari and that he was not in regular time scale of pay and that therefore, the question of reckoning 50% of his service as Thalayari for providing pension would not arise. On the other hand, the learned counsel appearing for the respondent/writ petitioner filed a compilation of the earlier orders passed by this Court.

5. We carefully went through the order dated 16 February 2009 dismissing W.A.(MD).No.16 of 2009. The present case is absolutely similar. The learned Additional Government Pleader appearing for the appellants contended that the case on hand is squarely covered by the earlier decisions of this Court. We find no merit in this appeal.



6. Accordingly, the writ appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

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Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar.

+1CC to Mr.S.Visvalingam, Advocate, SR.No. 71804
+1CC to the Special Government Pleader SR.No. 72630

ORDER MADE IN
W.A. (MD) No.1046 of 2017

km/NB
AM/SKN RSK/SAR 1/12.09.2017/3P/3C