



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2017

CORAM:

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

W.A. (MD) No.1143 of 2017
and
C.M.P. (MD) .No.7822 of 2017

1. The Secretary to Government,
Revenue Department,
Secretariat,
Chennai - 600 009.
 2. The Revenue Divisional Officer,
Usilampatti Division,
Usilampatti,
Madurai District.
 3. The Tahsildar,
Thirumangalam Taluk,
Thirumangalam,
Madurai District.
- .. Appellants/Respondents

Vs.

V.Karuppiah .. Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent Act, praying to set aside the order dated 28.06.2016 made in W.P. (MD).No.15473 of 2014, on the file of this Court and allow this writ Appeal.

Prayer in WP(MD). 15473/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent relating to his ordes issued in memo No. ROC NO. 355/2014/A2 dated 08.07.2014 and quash the same and consequently direct the respondents to count the services put in by the petitioner in the cadre of Thalaiyari on consolidated pay as per Rule 11(4) of the Tamil Nadu Pension Rules, 1978 along with regular time scale of pay in the cadre of Village Assistant for the purpose of calculation of pension and send pension proposals 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 28 June 2016, whereby W.P.(MD).No.15473 of 2014 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 29 September 1958 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 30 June 1999. 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 30 June 1999 was taken into account for sanction of pension. The continuous service of 37 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. 15473 of 2014. 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. 15473 of 2014 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 similar. The learned Additional Government Pleader could not dispute 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 Petition is also dismissed.

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Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
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3. The Tahsildar,
Thirumangalam Taluk,
Thirumangalam,
Madurai District.

+1cc to Mr.S.Visvalingam, Advocate in SR.No.73588

+1cc to The Special Government Pleader in SR.No.74297

km/NB

AE/MR KKR/SAR1/08.09.2017/3P/6C

**ORDER MADE IN
W.A. (MD) No.1143 of 2017
22.08.2017**