



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) Nos.1051 & 1052 of 2018

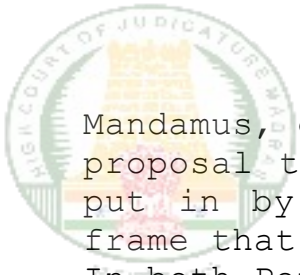
Sivasubramanian ... Petitioner in W.P.No.1051 of 2018
Chinnakaruppaiah ... Petitioner in W.P.No.1052 of 2018

Vs.

- 1.The Principal Accountant General
(A&E) Pension,391, Anna Salai,
Chennai.
- 2.The State of Tamil Nadu,
Represented by its Secretary,
Department of Revenue,
St.George Fort,Chennai.
3. The District Collector,
Virudhunagar District,
Virudhunagar. ...Respondents in both Petitions
- 4.The Tahsildar,
Srivilliputhur,
Virudhunagar District. ...4th Respondent in W.P.No.1051 of 2018
&
...5th Respondent in W.P.No.1052 of
2018
- 4.The Revenue Divisional Officer,
Srivilliputhur,
Virudhunagar District. ...4th Respondent in W.P.(MD).No.1052
of 2018

Prayer in W.P.(MD).NO.1051 of 2018: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 2 to 4 to send revised pension proposal to the first respondent calculating half of the services put in by the petitioner as Thalaiyari within a specified time frame that may be fixed by this Court.

<https://hcservices.courts.gov.in/hcservices/>
Prayer in W.P.(MD).NO.1052 of 2018: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of



Mandamus, directing the respondents 2 to 5 to send revised pension proposal to the first respondent calculating half of the services put in by the petitioner as Thalaiyari within a specified time frame that may be fixed by this Court.

In both Petitions

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For Petitioners : Mr.T.S.Mohamad Mohideen
For Respondents : Mr.P.Gunasekaran for R1
: Mr.J.Gunaseelan Muthiah for R2 to R4

COMMON ORDER

Heard the learned counsel on either side.

2.By consent of both the parties these main Writ Petitions themselves are taken up for final disposal.

3.The petitioners retired as village Assistants. Their services were brought under regular time scale of pay with effect from 01.06.1995. The grievance of the petitioners is that their services from the said date alone were taken into account to calculate their pension. The petitioners want half of the services put in by them as Thalaiyari from the date of appointment till 01.06.1995 to be considered. Since the respondents 2 to 4 have not submitted revised pension proposal to the first respondent for calculating half of the service put in by them as Thalaiyari, the present Writ Petitions came to be filed.

4.Mr.T.S.Mohamad Mohideen, learned counsel appearing for the petitioners placed reliance on a number of earlier orders passed by this Court and stated that a direction may be given to the respondents 2 to 4.

5.At this stage, Mr.P.Gunasekaran, learned counsel, appearing for the first respondent pointed out that the Village Assistants were worked only as part time Government Servants and therefore the services put in by them, i.e., part time service cannot be taken into account for computing their pension. He placed reliance on **Rule 3 of Tamil Nadu Village Servants Conduct Rules, 1983**, which reads as under:-

"Private trade or employment :-The Village servants being part-time Government servants, may take up part-time work or occupation.

Provided that-

(1) such part time work or occupation shall not interfere with their legitimate duties as Village Servants; and



(2) the previous permission, in writing, has been applied for and obtained from the Revenue Divisional Officer concerned if the work or occupation is confined to the charge Village and from the District Collector concerned, if the work or occupation extends beyond the charge village."

6. However, this Court is of the view that the issue on hand is covered by more than one decision of this Court. For instance in W.A.(MD).No.16 of 2009, the Hon'ble Division Bench by order dated 16.02.2009, held that not only the permanent (full time) service of the Village Assistant has to be counted for reckoning the period of qualifying service, but the period of service rendered as temporary (full time) or officiating (full time) shall also be counted for reckoning the period of qualifying service. The Hon'ble Division Bench, while dismissing the appeal filed by the Government took note of the relevant provisions applicable to the Government including the provisions set out in Tamil Nadu Village Assistants Pension Rules, 1996. To the same effect, the order dated 06.03.2009 was passed in W.P.(MD).No.11094 to 11101 of 2008. The other decisions of the Division Bench have also been enclosed in the typed set of papers by the petitioner. This Court has absolutely no doubt that the case on hand is similar to the ones referred to earlier. In this case, there is nothing on record to show that the petitioners were part time employees.

7. In this view of the matter, this Court, following the earlier orders, directs the respondents 2 to 4 to send a revised pension proposal to the first respondent by taking into account half of the services put in by them as Thalaisyari from the date of appointment till 01.06.1995, when they were brought into time scale of pay with effect from 01.06.1995. The respondents 2 to 4 shall send such revised proposal within a period of eight weeks from the date of receipt of a copy of this order.

8. These Writ Petitions stand allowed accordingly. No costs.

Sd/-

Assistant Registrar (AD1)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
The State of Tamil Nadu,
Department of School Education,
For St. George, Chennai-600 009.



2. The District Collector,
Virudhunagar District,
Virudhunagar.

3. The Tahsildar,
Srivilliputhur,
Virudhunagar District.

4. The Revenue Divisional Officer,
Srivilliputhur,
Virudhunagar District.

+1cc to Mr.T.S.Mohamad Mohideen, Advocate Sr.No.in 44500

+1cc to Mr.P.Gunasekaran, Advocate Sr.No.in 44552

+1cc to The Special Government Pleader, Sr.No.45236

TSG

AE/SV MMS/SAR1/3P/8C/18/05/2018

W.P. (MD) Nos.1051 & 1052 of 2018
29.01.2018