



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) Nos.19528 of 2014

and

M.P. (MD) No.1 of 2014

WEB COPY

Muthulakshmi

... Petitioner

Vs.

1.The State of Tamil Nadu
Represented by its Secretary
Revenue Department,
St. George Fort,
Chennai-600 009.

2.The District Collector,
Nagercoil,
Kanyakumari District.

3.The Tahsildar,
Thovalai Taluk,
Kanyakumari District.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to refix the pension of the petitioner, by considering the petitioner's husband's entire period of service, i.e. from 08.09.1980 to 17.05.2001, on par with the various judgments made by the Honourable Madras High Court, Madurai Bench and further direct the respondents to sanction all pensionary benefits to the petitioner.

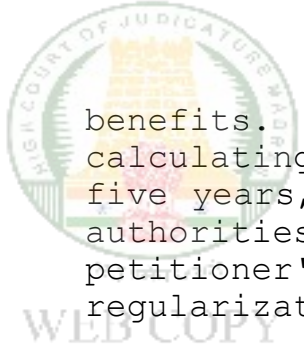
For Petitioner : Mr.C.Kishore

For Respondents : Mr.J.Gunaseelan Muthaiah
Additional Government Pleader

ORDER

The writ petitioner's husband namely Muthuvairavan was appointed as "Grama Paniyalar" on temporary basis vide order dated 08.09.1980 by the Tahsildar, Thovalai Taluk, Kanyakumari District. The said order specifically refers to Rule 4 of Tamil Nadu Village Assistant Pension Rules, 1995. The writ petitioner's husband died on 17.05.2001.

2.The case of the writ petitioner is that the authority failed to apply Rule 4 of Tamil Nadu Village Assistant Pension Rules, 1995 while computing his length of service for calculating pension. The writ petitioner's husband was appointed on temporary basis vide order dated 08.09.1980. The writ petitioner submitted a representation on 31.10.2014 seeking grant of pensionary and other



benefits. The writ petitioner was granted family pension by calculating the gross qualifying service, which was taken as only five years, eleven months and seventeen days. This was because the authorities proceeded on the premise that the service of the writ petitioner's husband was to be counted from the date of regularization i.e., 06.07.1995.

3.The said G.O.Ms.No.625, Revenue Department dated 06.07.1995 would apply only, if the petitioner's husband was treated as a part time employee. The order of appointment dated 08.09.1980, does not indicate that the writ petitioner's husband was appointed as a part time employee. It only refers to him as a temporary employee.

4.The learned counsel for the petitioner has drawn the attention of this Court to the order dated 24.08.2007 in W.P.(MD) No.1716 of 2005. The present case on hand is absolutely similar to the facts of the said writ petition. A learned Judge of this Court referring to the aforesaid rule allowed the writ petition as prayed for and the said order was challenged in W.A.(MD)NO.16 of 2009. The Division Bench of this Court by order dated 16.02.2009, dismissed the writ appeal. The said order was implemented by the Government by issuing G.O.Ms.No.33, dated 25.01.2010. The case on hand is covered by the aforesaid decision.

5.Therefore, the respondents are directed to refix the writ petitioner's pension by considering the entire period of service from 08.09.1980 to 17.05.2001 as qualifying service and sanction pension within a period of three months from the date of receipt of copy of this order. Accordingly, this writ petition is allowed. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

1.The Secretary

Revenue Department, St. George Fort, Chennai-600 009.

2.The District Collector,

Nagercoil, Kanyakumari District.

3.The Tahsildar,

Thovalai Taluk,

Kanyakumari District.

+One cc to Mr.C.Kishore, Advocate, SR.No.42128

+One cc to The Special Government Pleader, SR.No.42260

psd

<https://hservices.ecourts.gov.in/hservices/>

RI/6C/2173V/MIS/SAR1/14/2/2018

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