BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.07.2018

CORAM:
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI
W.A.(MD) No.949 of 2018
and
C.M.P.(MD) No.6301 of 2018

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

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

3.The District Collector,
Madurai District,
Madurai. ... Appellants/Respondents

-vs-

C.Ayyanan ... Respondent / Writ Petitioner

Writ Appeal filed under Clause 15 of Letters Patent Act to set aside the order, dated 16.08.2017, made in W.P.(MD) No.14679 of 2017.

Prayer in WP(MD)No. 14679 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified mandamus directions in the nature of a writ calling for the records of the third respondent i.e., the District collector, Madurai in his proceedings na.ka.no.g1/34426/17 dated 31.07.2017 and quash the same and consequently direct the first respondent i.e. the Principal secretary to government, Revenue Department, Chennai to count half of the services put in by the petitioner in the cadre of Thalayari for the period form 27.06.1979 to 31.05.1995 for the purpose of calculation of pension and to submit proposals to the Accountant General, Chennai for re fixation of his pension in the light of the orders passed in G.o.no.173 Revenue 9 (ser 8(1)) Department dated 29.05.2014 and the recent orders in W.A.(MD)No.865 of 2017 dated 13.07.2017 filed by the State against the orders in W.P.(MD)No.13032 of 2015, dated 14.07.2016 within a specified time frame that may be fixed by this Court.

For Appellants : Mr.A.K.Baskara Pandian
For Respondent : Mr.S.Visvalingam

J U D G M E N T

[Judgment of the Court by K.RAVICHANDRABAABU, J.]

Mr.S.Visvalingam, learned counsel takes notice for the sole respondent.

2. By consent the main Writ Appeal itself is taken up for final disposal, since the dispute raised in this appeal lies in a narrow campus, which is fairly not opposed by the learned counsel appearing for the respondent/writ petitioner.

3. This Writ Appeal is directed against the order passed by the writ court in W.P.(MD) No.14679 of 2017 dated 16.08.2017.

4. The writ petitioner approached the writ court and filed the writ petition challenging the order of the District Collector, Madurai, dated 31.07.2017 with the consequential prayer for a direction to the Government of Tamil Nadu to count half of the services put in by the petitioner in the cadre of Thalayari for the period from 27.06.1979 to 31.05.1995 for the purpose of calculation of pension and to submit proposals to the Accountant General, Chennai, for re-fixation of his pension, in the light of the orders passed in G.O.No.173 Revenue (Ser 8(1) Department dated 29.05.2014 and the recent orders in W.A.(MD) No.865 of 2017 dated 13.07.2017.

5.The writ court allowed the writ petition and directed the third respondent therein to send a proposal to the first respondent therein within a period of two weeks and with a further direction to the first respondent to count the services rendered by the petitioner in the post of Thalayari from 27.06.1979 till 01.06.1995 for the purpose of calculating the pensionary benefits. The only grievance expressed before us by filing the present Writ Appeal is that the writ court ought to have seen that only 50% of the service rendered by the petitioner in the relevant period can be counted and not his full service. It is also pointed out that the very prayer in the writ petition itself is for counting 50% of such service. Therefore, it is contended that the direction issued by the writ court to count full service rendered by the petitioner in respect of the particular period is erroneous.

6. The learned counsel for the respondent/writ petitioner Mr.S.Visvalingam, fairly submitted that only 50% of such service can be counted and that was the petitioner's prayer before the writ court as well.

7. Considering the above stated facts and circumstances, the Writ Appeal is allowed in part only by modifying the direction issued by the writ court to the effect that the first appellant shall count 50% of the service rendered by the petitioner in the post of Thalayari from 27.06.1979 till 01.06.1995 for the purpose of calculating the pensionary benefits. In all other respect, the order passed by the writ court shall stand unaltered. Since this Court is modifying the said order passed by the writ court as stated supra, the first appellant shall complete such exercise within a period of four weeks from the date of receipt of a copy of this judgment. No costs. Consequently, C.M.P.(MD) No.6301 of 2018 is closed.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-I)

To

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

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

3.The District Collector,
Madurai District,
Madurai.

+1cc to Mr.S.Visvalingam, Advocate Sr.No.72967
+1cc to Spl.Government Pleader Sr.No.73279

CM

VB/SKN/RSK/SAR1/27.07.2018/3P/6C

W.A.(MD) No.949 of 2018
and
C.M.P.(MD) No.6301 of 2018
16.07.2018