



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2018

CORAM:

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)Nos.15005 to 15012 of 2018,
8588, 16550 of 2017 and
16156 of 2018

W.P.(MD)No.15005 of 2018

Perumalsamy	... Petitioner/W.P.(MD)No.15005/2018
Muthupandi	... Petitioner/W.P.(MD)No.15006/2018
A.Veera Sooran	... Petitioner/W.P.(MD)No.15007/2018
S.Kombhaiah	... Petitioner/W.P.(MD)No.15008/2018
Kasipandi	... Petitioner/W.P.(MD)No.15009/2018
V.Shanmugaiah	... Petitioner/W.P.(MD)No.15010/2018
Ganapathi	... Petitioner/W.P.(MD)No.15011/2018
Bommusamy	... Petitioner/W.P.(MD)No.15012/2018
Gurusamy Thievar	... Petitioner/W.P.(MD)No.8588/2017
P.Perumal	... Petitioner/W.P.(MD)No.16550/2017
Bommu Samy	... Petitioner/W.P.(MD)No.16156/2018

Vs

- 1) The Principal Accountant General (A&E) Pension,
391, Anna Salai,
Chennai. ...R1-in W.P(MD) 15005 TO 15012/2018
and R2 in W.P.(MD) 16156/2018, 8588 & 16550/2017
- 2) The State of Tamil Nadu,
Rep., by its Secretary,
Department of Revenue,
Fort St.George,
Chennai. ...R2 in W.P.(MD)15005 TO 15012/2018,
W.P.(MD)16156/2018
and R1 in W.P.(MD) 8588 & 16550/2017
- 3) The District Collector,
Thoothukudi District,
Thoothukudi. ...R3 in W.P.(MD)15005 TO 15012/2018,
W.P.(MD)16156/2018
and in W.P.(MD) 8588 & 16550/2017
- 4) The Tahsildar,
Kovilpatti Taluk Office,
Thoothukudi District. ...4th Respondent in W.P.(MD)
NoS.15005,15007,15008
15011/2018
5th Respondent in W.P.(MD)No16156/2018



5) The Tahsildar,
Ottapidaram Taluk ,
Thoothukudi District. ...4th Respondent in W.P.(MD)15006,15009,
15010,15012/2018 &
W.P.(MD) 8588 & 16550/2017
W.P.(MD)16156/2018

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COMMON PRAYER: in W.P.(MD)15005 to 15012/2018 Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 2 to 3 and 2 to 4 send revised pension proposal to the first respondent calculating half of the services put in by the petitioner as Village Assistant from 23.08.1979,17.09.1986,30.06.1967,23.10.1982,11.04.1983,11.04.1974,29.01.1985,18.06.1981 to 01.06.1995 respectfully within a specified time frame that may be fixed by this Court.

Prayer in WP(MD)No. 8588/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ, order or direction, more particularly in the nature of a WRIT OF CERTIORARIIFIED MANDAMUS calling for the records pertaining to the impugned proceedings issued by the 4th respondent in Na Ka No.A4/5417/2016 dated 11.04.2017 and quash the same and consequently direct the respondents to grant full pension to the petitioner reckoning the services of the petitioner from 29.05.1962 along with arrears of pension, and other attendant and pensionary benefits within the time stipulated by this Honble court and pass such other orders as this Honble court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in WP(MD)No. 16550/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus directing the respondents herein to sanction the pensionary benefits to the petitioner from the date of appointment by calculating the petitioners service from the date of his appointment i.e.25.4.1977 till 30.4.2000 based on the G.O.Ms.No.408 Finance (Pension) Department dated 25.8.2009 and further to direct the respondents to pay the revised pension, arrears of pension, and other monetary benefits.

Prayer in WP(MD)No. 16156/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court 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 Village Assistant form 15/07/1982 to 01/06/1995 within a specified time frame that may be fixed by this Honourable Court.



WP (MD) No's. 15005 to 15012/ 2018 :

For Petitioner : Mr.P.Mahendran

For R1 : Mr.P.Gunasekaran,
Standing Counsel

For RR2 to 4 : Mrs.S.Srimathy,
Special Government Pleader.

WP (MD) No's. 8588&16550 of 2017 :

For Petitioner : Mr.P.Mahendran

For R1, R3&R4 : Mrs.S.Srimathy,
Special Government Pleader.

For R2 : Mr.P.Gunasekaran,

WP (MD) No.16156/ 2018 :

For Petitioner : Mr.P.Mahendran

For R1 : Mr.P.Gunasekaran,

For RR2 to 5 : Mrs.S.Srimathy,
Special Government Pleader.

C O M M O N O R D E R

In all these writ petitions, the relief sought for is one and the same and since the petitioners are similarly placed persons, with the consent of both sides, all these writ petitions were heard together and are being disposed of by this common order.

2. Heard the learned counsel appearing for the petitioners and Mr.P.Gunasekaran, learned standing counsel appearing for Accountant General and Mrs.S.Srimathy, learned Special Government Pleader appearing for the official respondents in all these writ petitions.

3. On facts, all the petitioners have been appointed long years back as Village Assistant/Thalayari. Initially, the petitioners have been working on temporary basis for several years. However, from 01.06.1995, they have been brought under regular time scale of pay and their services have been regularised.

4. Even though they have been brought under the regular time scale of pay and their services have also been regularised, where all these petitioners retired from service, they have not been given the full pensionary benefits for the reasons that, by calculating their services from 01.06.1995, the petitioners have not rendered



qualifying services for the purpose of full pension and therefore, only a minimum specialised pension was given, and the full pension, though they are entitled, has not been given.

5. In this regard, the learned counsel appearing for the petitioners would submit that, the issue raised in these batch of cases have already been decided in a number of cases and recently, this Court, in W.P.(MD) No.14245 of 2018 etc., batch of cases dated 10.07.2018 in the matter of S.Thavamani vs. Principal Secretary to the Government, Revenue & Disaster Management Department and others, had a occasion to consider the issue once again and passed a detailed order, where also it was decided in favour of the employee / petitioner.

6. Therefore, the learned counsel appearing for the petitioners in these writ petitions would submit that, all the petitioners are entitled to succeed, in view of the said judgment made by this Court, as the issue raised herein is also covered and the petitioners are also similarly placed.

7. On the other hand, Mrs.S.Srimathy, learned Special Government Pleader appearing for the official respondents 2 to 4 and Mr.P.Gunasekaran, learned standing counsel appearing for the Principal Accountant General (A&E) Pension, would fairly submit that, the issue raised in these Writ Petitions is covered by various decisions of this Court, especially, by the latest decision dated 10.07.2018 (i.e.,) S.Thavamani vs. Principal Secretary to the Government, Revenue & Disaster Management Department and others.

8. I have considered the said submissions made by the learned counsel appearing for both sides.

9. In W.P.(MD) No.14245 of 2018 etc batch in S.Thavamani vs. Principal Secretary to the Government, Revenue & Disaster Management Department and others dated 10.07.2018, I had an occasion to consider the issue raised in these batch of cases. After having considered the issue at length, ultimately, I had given the following relief in the said batch of cases, which reads thus:

"51. In view of these discussions and in view of the orders passed by this Court in number of cases, as has been referred to above and by taking into account the rule position in this regard and also taking into account the facts that, admittedly, all these petitioners had been appointed long back as Village Assistants and had been rendering service for several years before they have been brought under regular time scale of pay from 01.06.1995, this Court is inclined to pass the following order in all these cases:

(i) The respondents are directed to consider the request of the petitioners for providing full or eligible pension, by reckoning the temporary, officiating and



permanent service of the petitioners rendered by them prior to 01.06.1995, from the date of their respective appointment, as qualifying service, for computing the length of service for calculation of pension and gratuity

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(ii) While calculating the said service, only 50% of the said service rendered by them from the date of appointment till 31.05.1995 shall alone be considered as qualifying service ; and

(iii) By calculating the said service, whatever the eligible pension for each of these petitioners that shall be calculated and the same, with arrears, shall be paid by the respondents to the respective petitioners, within a period of twelve weeks from the date of receipt of a copy of this order.

52. In view of the above directions, the impugned orders passed in W.P.(MD)Nos.8714, 6744 and 6745 of 2018 are hereby quashed and the matters are remitted in respect of the said writ petitions to comply with the aforesaid directions."

10. Since the facts of these cases are no way different from the batch of cases referred to above in S.Thavamani vs. Principal Secretary to the Government, Revenue & Disaster Management Department and others, this Court is of the view that, the relief granted in those cases shall be extended to these petitioners also.

11. In W.P.(MD)No.8588 of 2017, it is a prayer for a Writ of Certiorari, whereas, in all other cases, it is the prayer for Writ of Mandamus. Therefore, all these writ petitions are Allowed to the terms indicated above, by setting aside the said impugned order in W.P.(MD)No.8588 of 2017 and by issuing Mandamus, in all these cases. The needful shall be done by the respondents within a period of twelve weeks from the date of receipt of a copy of this order.

12. With these directions, these writ petitions are Allowed. It is made clear that, since the necessary directions, as issued above, have to be first complied with by the Drawing Officer concerned, and only on receipt of the proposal from the Drawing Officer concerned, then only, the Principal Accountant General of the Government of Tamil Nadu will act upon.

13. Therefore, the twelve weeks period indicated above shall be applicable for the act to be undertaken by the Drawing Officer and once the proposal is received from the Drawing Officer in each



individual case, thereafter, the Principal Accountant General office shall act upon and do the needful within a period of four weeks thereafter. However, there shall be no order as to costs.

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Sd/-

Assistant Registrar (CS-III)

Sub Assistant Registrar (CS-IV)

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To

- 1) The Principal Accountant General (A&E) Pension,
391, Anna Salai,
Chennai.
- 2) The Secretary,
to Government of Tamil Nadu,
Department of Revenue,
Fort St. George,
Chennai.
- 3) The District Collector,
Thoothukudi District,
Thoothukudi.
- 4) The Tahsildar,
Kovilpatti Taluk Office,
Thoothukudi District.
- 5) The Tahsildar,
Ottapidaram Office,
Thoothukudi District.

+11cc to Mr.P.Mahendran, Advocate in SR No.76034

+1cc to Mr.P.Gunasekaran, Advocate in SR No.76032

+1cc to Spl Government Pleader, SR No.75945

W.P. (MD) Nos.15005 to 15012 of 2018,
8588, 16550 of 2017 and
16156 of 2018

NM/RSK/SAR IV/26.11.18/6P/19C.