BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:02.07.2019
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.(MD) No. 16318 of 2015

V.Kaliyamoorthy ... Petitioner

-vs-

1.State of Tamil Nadu,
Represented by the Secretary to Government,
Revenue Department,
Fort St. George,
Chennai 600009.

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

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to consider the Petitioners representation dated 21.07.2015 regarding to grant minimum pension with all consequential benefits and arrears to the petitioner in the light of G.O.Ms. No. 756 Revenue Department dated 17.8.1993.

For Petitioner : Mr.S.Rajaprabu

For Respondents : Mr.S.Dhayalan
Government Advocate

**ORDER**

The relief sought for in the present Writ Petition is to direct the respondents to consider the representation submitted by the Writ Petitioner on 21.07.2015 regarding to grant of minimum pension with all consequential benefits and arrears to the Writ Petitioner, in the light of G.O.Ms. No.756, Revenue Department dated 17.8.1993.

2.The learned counsel appearing for the writ petitioner states that the writ petitioner was employed as Village Headman from the year 1974 to 1975 and thereafter, the said post was abolished. Again, the writ petitioner was re-appointed as Village Administrative Officer in the year 2005 and retired from service and attending the age of superannuation on 30.04.2011. Based on the services rendered by the Writ Petitioner in the post of Village Administrative Officer and Village Headman, the writ petitioner claims that the pension to be paid as per the Tamil Nadu Pension Rules.



3.The counter affidavit filed by the respondents states that the writ petitioner, Mr.V.Kaliyamoorthy was working as part time

Village Headman in Kondikulam Village in Pattukkottai Taluk, Thanjavur District, prior to 14.11.1980 in various spells from 31.08.1974 to 30.11.1974 (3 months) and from 31.12.1975 to 30.06.1976 (6 months). In the counter in paragraph Nos.5 to 10 are extracted hereunder:



> "...5.In 1980, the Government took a policy decision to restructure the Village Administrative set up. Accordingly the Tamil Nadu Ordinance 10/80 was promulgated by his Excellency the Governor on 13.11.1980 for the abolition of the posts of part time Village Officers. These posts were abolished with effect from 14.11.1980 by Tamil Nadu Abolition of posts of part time Village Officers Act, 1981 (Tamil Nadu Act 3 of 1981). In the place of part time Village Officers full time Village Administrative Officers were appointed in all Revenue Village in the State.
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> 6..the petitioner was appointed as Village Administrative Officer as per the orders of the Revenue Divisional Officer, Kumbakonam Proceedings in RC.9031/2005/A1, dated 19.10.2005, consequent to passing of the special qualifying examination.
>
> 7..the petitioner joined duty as Village Administrative Officer on 24.10.2005. The petitioner had worked as such and retired on superannuation on 30.04.2011.
>
> 8...the petitioner has entered into service consequent to the introduction of Contributory Pension Scheme which came into force on 01.04.2003. Since the petitioner has entered into service only on 24.10.2005, after the introduction of Contributory Pension Scheme, he is eligible only for Contributory Pension Scheme and therefore, the petitioner is not entitled for Regular Pension as per Tamil Nadu Pension Rules, 1978.
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> 9....Minimus Pension has been sactioned in G.O.Ms.No.756, Revenue Department dated 17.08.1993 in respect of Ex-Village Officers who have lost their job consequent to the abolition of Ex-Village Officers post on 14.11.1980 and appointed as Village Administrative Officers and retired without completing the required minimum qualifying service of 10 years, by relaxation of rule 43 of the Tamil Nadu Pension Rules, 1978. The petitioner was not on duty as Ex-Village Officer as on 14.11.1980 and the petitioner has served only for 9 months in various spells prior to 14.11.1980. It is further submitted that considering the Ex-Village Officers who have not been provided with appointment either in 1st phase or in 2nd phase, the Government have issued orders in G.O.Ms.No.954, Revenue Department, dated 16.10.1997 for providing appointment to such let over Ex-Village Officers who have got their names registered in the Employment Exchange. It is submitted that the petitioner was appointed as per the orders of

the Revenue Divisional Officer, Kumbakonam Proceedings in RC.9031/2005/A1, dated 19.10.2005. The petitioner has entered into service consequent to the introduction of Contributory Pension Scheme which came into force on 01.04.2003. Since the petitioner has entered into service only on 24.10.2005, after the introduction of Contributory Pension Scheme, he is eligible only for Contributory Pension Scheme and therefore the petitioner is not entitled for Regular Pension as per Tamil Nadu Pension Rules, 1978.

10..G.O.Ms.No.756, Revenue Department, dated 17.08.1993 only provides relaxation to the Village Officials who were retrenched on 14.11.1980 and to the extent that qualifying service will be calculated from 14.11.1980 instead of date of appointment as Village Administrative Officer till the date of retirement, for sanction of minimum pension if qualifying services crosses 10 years. As per the said G.O. the individual will not be eligible for minimum pension. Since the petitioner was working as a part time village Headman in Kondikulam Village in Pattukottai Taluk, Thanjavur District from 31.08.1974 to 30.11.1974 and from 31.12.1975 to 30.06.1976 and he had worked in the said post for the period of 9 months and subsequently the post of Village officials were abolished on 14.11.1980, consequent to the promulgation of ordinance. Subsequently, on account of the liberalised concession afforded by the Government in appointment of the erstwhile village officers, he was appointed as Village Administrative Officer as per the orders of the Revenue Divisional Officer, Kumbakonam proceedings in RC.9031/2005/A1, dated 19.10.2005, consequent to passing of the Special qualifying examination. It is further submitted that the petitioner joined duty as Village Administrative Officer on 24.10.2005. The petitioner had worked as such and retired on superannuation on 30.04.2011. The petitioner has entered into service consequent to the introduction of Contributory Pension Scheme which came into force on 01.04.2003. It is also submitted that the petitioner has rendered 6 years 8 months and 20 days of service. Since the petitioner has entered into service only on 24.10.2005, after the introduction of Contributory Pension Scheme, he is eligible only for contributory Pension Scheme and therefore the petitioner is not entitled for Regular Pension as per Tamil Nadu Pension Rules 1978..."

4.In view of the fact that the writ petitioner is not possessing necessary minimum services as per the Pension Rules and further, he was appointed as Village Administrative Officer on 01.04.2003 and more specifically under the Contributory Pension Schemes, the writ petitioner cannot claim pension with reference to

G.O.Ms. No.756, Revenue Department dated 17.8.1993 or under the provisions of the Tamil Nadu Pension Rules.

5.With these observation, the writ petition stands dismissed. No costs.



Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar(CS )

To

1.The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai 600009.

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

+1 CC to SPECIAL GOVERNMENT PLEADER SR.No.73206.

**W.P.(MD) No. 16318 of 2015**
**02.07.2019**

CS: 15/07/2019 4P 4C