



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

W.P. (MD) Nos.15269 to 15272 of 2017
and
W.M.P. (MD) Nos.12081 to 12084 of 2017

W.P. (MD) No.12569 of 2017:-

C.Kathirveli

... Petitioner

Vs.

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

2.The District Collector,
Madurai District, Madurai.

3.The Tahsildar,
Madurai North Taluk,
North Taluk Office, Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent, in his proceedings in Na.Ka.No.32854/16/G1, dated 27.04.2017 and quash the same as illegal and consequently direct the respondents to refix the pension of the petitioner by considering petitioner's entire period of service, ie., from 18.05.1974 to 30.11.2012 on par with the various judgments made by this Court and further direct the respondents to sanction the petitioner's full pensionary benefits to the petitioner within the time fixed by this Court.

W.P. (MD) No.15270 of 2017:-

A.Malaichamy

... Petitioner

Vs.

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



2.The District Collector,
Madurai District, Madurai.

3.The Tahsildar,
Madurai North Taluk,
North Taluk Office, Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent, in his proceedings in Na.Ka.No.23541/17/G1, dated 09.06.2017 and quash the same as illegal and consequently direct the respondents to refix the pension of the petitioner by considering petitioner's entire period of service, ie., from 10.06.1987 to 30.06.2012 on par with the various judgments made by this Court and further direct the respondents to sanction the petitioner's full pensionary benefits to the petitioner within the time fixed by this Court.

W.P. (MD) No.15271 of 2017:-

S.Malaichamy

... Petitioner

Vs.

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

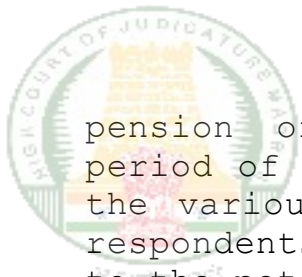
2.The District Collector,
Madurai District, Madurai.

3.The Tahsildar,
Madurai North Taluk,
North Taluk Office, Madurai.

4.The Tahsildar,
Madurai East Taluk,
East Taluk Office,
Y.Othakadai, Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent, in his proceedings in Na.Ka.No.5137/17/G1, dated 28.03.2017 and quash the same as illegal and consequently direct the respondents to refix the



pension of the petitioner by considering petitioner's entire period of service, ie., from 07.09.1972 to 31.08.2013 on par with the various judgments made by this Court and further direct the respondents to sanction the petitioner's full pensionary benefits to the petitioner within the time fixed by this Court.

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W.P. (MD) No.15272 of 2017:-

K.Karuppu

... Petitioner

Vs.

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

2.The District Collector,
Madurai District, Madurai.

3.The Tahsildar,
Madurai North Taluk,
North Taluk Office, Madurai.

4.The Tahsildar,
Madurai East Taluk,
East Taluk Office,
Y.Othakadai, Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent, in his proceedings in Na.Ka.No.59137/17/G1, dated 21.03.2017 and quash the same as illegal and consequently direct the respondents to refix the pension of the petitioner by considering petitioner's entire period of service, ie., from 01.06.1978 to 28.02.2009 on par with the various judgments made by this Court and further direct the respondents to sanction the petitioner's full pensionary benefits to the petitioner within the time fixed by this Court.

For Petitioner

: Mr.C.Kishore

For Respondents

: Mrs.J.Padvathydevi
Special Government Pleader
(In all cases)

**COMMON ORDER**

These Writ Petitions have been filed seeking issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the second respondent and to direct the respondents to re-fix the pension of the petitioners, by considering the petitioners' entire period of service and to sanction all the pensionary benefits to the petitioners.

2. Heard the learned counsel appearing for the petitioners and the learned Special Government Pleader appearing for the respondents.

3. The case of the petitioners is that they entered into the service of the third respondent on 18.05.1974, 10.06.1987, 07.09.1972 and 01.06.1978 respectively and they retired from service on attaining the age of superannuation. After their retirement, the petitioners had made request for re-fixation of pension and sanction of all the pensionary benefits, by considering the petitioners' entire period of service. Seeking such benefits, they made representations to the respondents on 13.04.2017, 08.05.2017, 11.07.2016 and 18.07.2016. However, the claim of the petitioners was rejected by the second respondent through impugned orders, dated 27.04.2017, 09.06.2017, 28.03.2017 and 21.03.2017. Hence, the petitioners have filed the present Writ Petitions.

4. The learned counsel appearing for the petitioners submitted that in similar circumstances, this Court, passed orders in ***W.P (MD) No.12776 of 2012 (C.Chellam Vs. The Principal Accountant General (A & E), 361, Teynampet, Annasalai, Chennai - 600 018) on 25.03.2014***, directing the respondents therein to pay the entire pension to the petitioner therein by taking into consideration of his entire period of service from 21.07.1975 to 30.09.2004 within a period of 12 weeks. It would be useful to refer the operative portion of the order, which reads as follows:

"5. Whether the petitioner is a part-time employee or a temporary employee or a part-time employee with honorarium payment, the issues went to a scrutiny of the Hon'ble Division Bench of this Court in W.A(MD) No.16 of 2009, dated 16.02.2009, wherein, in paragraph Nos.5, 6 and 9, it has been held as follows:

"5. The following fact remains from the record and for that, we are not able to appreciate the arguments made on behalf of the State. G.O.Ms.No.1914, dated 19th April, 1973, relied on behalf of the appellants relates to bifurcation of Villages and appointment of additional staff, proposal of which were approved and the notification attached to the same is applicable to those who were on service as on 19th April, 1973 not to the employees appointed subsequently. The question whether



the nature of appointment is part-time with honorarium or temporary in scale of pay not only depends upon rules and guidelines but also depends on the letter of appointment issued in favour of the employee concerned.

.....

6. The persons who were appointed as per the proceedings dated 21st July, 1975 cannot be guided pursuant to the order of regularisation contained in G.O.Ms.No.625, Revenue Department, dated 6th July, 1995. Even the said Government Order says that the services of persons appointed as part-time Village Assistants were regularized in the time scale of pay of Rs.600-10750. If the writ petitioner was appointed on 21st July, 1975, along with others, on temporary basis in the scale of pay fixed for Village Assistants, the respondents cannot deny pensionary benefits to the writ petitioner and others who were so appointed along with him, giving reference to G.O.Ms.No.625, Revenue Department, dated 6th July, 1995, as payment of pension is guided by statutory rule. Therefore, the said Government Order 625, Revenue Department, dated 6th July, 1995 is applicable only to Assistants and subsequently given Full Time appointment by providing scale of pay to the post of Village Assistants at Rs.600-10750 and not to those, like the petitioner, who were already temporary Village Assistants in the regular scale of pay.

.....

9. From the aforesaid Special Rules relating to Village Assistants, it would be evident that not only the permanent (full time) service 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."

6. In view of the said decision rendered by the Hon'ble Division Bench of this Court, I am of the view that the writ petition will have to be allowed and consequently, the respondents 1 and 2 are directed to pay the entire pension to the petitioner by taking into consideration of his entire period of service from 21.07.1975 to 30.09.2004 and pass appropriate orders within a period of 12 weeks from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No costs."

Thus, the learned counsel prayed for a similar order in these Writ Petitions as well, for which, the learned Special Government Pleader for the respondents has no serious objection.

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5. In view of the above, these Writ Petitions stand allowed and



impugned orders passed by the second respondent, dated 27.04.2017, 09.06.2017, 28.03.2017 and 21.03.2017 are quashed. Consequently, the respondents are directed to pay the entire pension to the petitioners by taking into considering their entire period of service and pass appropriate orders within a period of 12 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (as)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Secretary,
Revenue Department,
St.George Fort, Chennai - 600 009.

2.The District Collector,
Madurai District, Madurai.

3.The Tahsildar,
Madurai North Taluk,
North Taluk Office, Madurai.

4.The Tahsildar,
Madurai East Taluk,
East Taluk Office,
Y.Othakadai, Madurai.

+4 CC to M/s.C.KISHORE, Advocate (SR-55724[F] dated 21/03/2019)

cmr

ORDER MADE IN
W.P. (MD) Nos.15269 to 15272 of 2017
20.03.2019

KM/ (28.05.2019) 8P 9C