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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A.(MD)Nos.973 & 974 of 2019

and

CMP(MD)No.8742 & 8745 of 2019

- 1.The State of Tamil Nadu,
Rep.by its Secretary to Department of Revenue,
St.George Fort, Chennai.
 - 2.The District Collector,
Tirunelveli District,
Tirunelveli.
 - 3.The Tahsildar,
Sivagiri Taluk Office,
Tirunelveli District.
- .. Appellants in both the appeals

Vs.

- 1.V.Rajagopal ... 1st respondent in WA.973/2019
- 2.Mariappan ... 1st respondent in WA.974/2019
- 3.The Principal Accountant
General (A&E) Pension,
391, Anna Salai, chennai ... 2nd respondent in both
WA.973&974/2019

COMMON PRAYER: Writ Appeals filed under Clause 15 of Letters Patent, against the common orders passed by this Court in W.P.(MD).Nos.13667 & 13676 of 2018, dated 10.07.2018.

Prayer in WP(MD). 13667/ 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 4 to sent revised Pension Proposal to the 1st Respondent calculating half of the services put in by the Petitioner as Village Assistant from 30/04/1981 to 01/06/1995 within a specified time frame that may fixed by the Honble High Court.

Prayer in WP(MD). 13676/ 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 4 to sent revised Pension Proposal to the 1st Respondent calculating half of the services



put in by the Petitioner as Village Assistant from 29/12/1977 to 01/06/1995 within a specified time frame that may fixed by the Honble High Court.

For Appellants : Mr.A.K.Baskarapandian
Spl.Govt.Pleader
For Respondents : Mr.T.S.Mohamed Mohideen

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COMMON JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

We have heard Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the appellants and Mr.T.S.Mohamed Mohideen, learned counsel appearing for the respondents.

2. By consent of both sides, the Writ Appeals are taken up for final disposal.

3. These appeals have been preferred by the Government, challenging the common orders passed by this Court in W.P.(MD). Nos.13667 & 13676 of 2018, dated 10.07.2018.

4. It is not disputed by the appellants that the issue raised in these appeals was decided by us in ***W.A. (MD)No.886 to 893 of 2019***, dated 04.09.2019 (***The State of Tamil Nadu Vs. K.Karuthapandi***). The appeals filed by the Government were dismissed by the said Judgment. The operative portion of the Judgment reads as follows:

"5. After elaborately hearing the learned counsel for the parties, and carefully perusing the order impugned before us, we find that the learned Single Bench has adverted to the effect of Rule 4(a) of the 1955 rules and has held that it has to be conjointly read with Rule 11 (4) of the Tamil Nadu Pension Rules, 1978 and has allowed the writ petition. We find that the learned single Bench has referred to the decision of various Division Benches, which have affirmed the orders passed by various learned Single Judges and 50% of the temporary services was directed to be taken into consideration for the purpose of calculating the length of service, so that the writ petitioners would be entitled to get pensionary benefits.

6. The appellants again disputed the fact



well as the Principal Bench of this Court have extended the benefits to the retired employees by calculating the length of service by recognizing 50% of the temporary service and those matters have attained finality.

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7. The learned counsel for the first respondent relied upon a recent judgment of the Hon'ble Division Bench of this Court in the case of ***The Accountant General (A&E), Pension and two others Vs. Udaiyar and others*** in W.A. (MD)Nos.898 to 904 of 2018 dated 17.07.2018. In the said batch of cases, an identical contention was raised by the appellants and when the matter was taken up, the appellant department had stated that the issue is covered by the Judgment of the Division Bench of this Court dated 20.08.2010 in W.A.No.383 of 2010. Further, the Court noted that Special Leave Petitions filed by the Government in S.L.P.Nos.26586 to 26593 of 2012 against the similar order dated 14.02.2011 were dismissed. Therefore, the issue raised in the writ petitions has been settled by the decision of the Hon'ble Division Bench, which has been affirmed by the Hon'ble Supreme Court.

8. In the light of the settled position and also in the light of the findings recorded by the learned single Bench, we find that no good ground is made out by the appellants to interfere with the impugned order. Accordingly, these Writ Appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

5. Following the above decisions, these Writ Appeals are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)



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

2.The District Collector,
Tirunelveli District,
Tirunelveli.

3.The Tahsildar,
Sivagiri Taluk Office,
Tirunelveli District.

+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-89279[F] dated 25/09/2019)

+1 CC to M/s.GP (SR-89855[F] dated 26/09/2019)

W.A. (MD) Nos. 973 & 974 of 2019
25.09.2019

KM/ (21.10.2019) 4P 6C