



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)Nos.886 to 893 of 2019

and

C.M.P. (MD)Nos.7940 to 7947 of 2019

W.A. (MD)No.886 of 2019:-

1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of Revenue,
St.George Fort, Chennai.

2.The District Collector,
Tirunelveli District,
Tirunelveli.

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

..PETITIONERS/APPELLANTS 1 TO 3

IN WA(MD)No.886 AND 887 OF 2019

4.The Tahsildar,
Ambasamuthram Taluk Office,
Tirunelveli.

..PETITIONERS/APPELLANT WA(MD)NO.888 TO 893 OF 2019

- Vs. -

K.Karuthapandi	... Respondent/Petitioner in WA(MD). 886/ 2019
V.Shanmugaiah	... Respondent/Petitioner in WA(MD). 887/ 2019
V.Sudalimuthu	... Respondent/Petitioner in WA(MD). 888/ 2019
M.Shanmugaiah	... Respondent/Petitioner in WA(MD). 889/ 2019
M.Velpandian	... Respondent/Petitioner in WA(MD). 890/ 2019
E.Shanmugaiah	... Respondent/Petitioner in WA(MD). 891/ 2019



V.Meenakshisundaram ... Respondent/Petitioner in WA(MD). 892/ 2019
P.Pattathevar ... Respondent/Petitioner in WA(MD). 893/ 2019

The Principal Accountant General

A.E Pension, 391, Anna Salai, Chennai

... Respondent 1/1ST RESPONDENT IN ALL WA'S

Prayer in WA(MD).Nos. 886 to 893 of 2019 :

Writ Appeals against the order dated 10.7.2018 made in W.P (MD). Nos.13660, 13686, 13664, 13666, 3672, 13677, 13679 and 13680 of 2018 on the file of this Honourable Court and allow this Writ Appeals.

PRAYER IN WP'S Writ Petitions 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 revise Pension Proposal to the 1st Respondent calculating half of the services put in by the Petitioner as Village Assistant from

27.03.1976 to 01.06.1995 in WP(MD)No.13660 of 2018
01.07.1987 to 01.06.1995 in WP(MD)No.13686 of 2018
22.07.1985 to 01.06.1995 in WP(MD)No.13664 of 2018
21.01.1992 to 01.06.1995 in WP(MD)No.13666 of 2018
23.02.1976 to 01.06.1995 in WP(MD)No.13672 of 2018
30.03.1976 to 01.06.1995 in WP(MD)No.13677 of 2018
17.07.1984 to 01.06.1995 in WP(MD)No.13679 of 2018
06.07.1979 to 01.06.1995 in WP(MD)No.13680 of 2018

For Appellants : Mr.A.K.Baskara Pandian
Special Government Pleader

For R1 : Mr.T.S.Mohamed Mohideen

COMMON JUDGMENT

[Common Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.A.K.Baskara Pandian, learned Special Government Pleader, appearing for the appellants and Mr.T.S.Mohamed Mohideen, learned counsel, appearing for the first respondent.

2. These appeals have been filed by the State of Tamil Nadu, represented by the Secretary of the Revenue Department and two others challenging the common order passed in W.P.(MD)No.14245 of 2018 etc batch, dated 10.07.2018.

<https://hcservices.ecourts.gov.in/hcservices/>



3. The learned Special Government Pleader vehemently contended that the benefit of regularization was granted to the first respondents / writ petitioners by virtue of the decision taken by the Government in G.O.Ms.No.625, Revenue Department, dated 06.07.1995 and regularization as full time employee was to take effect only from 01.06.1995. That the learned single Judge had erred in granting relief by directing to consider 50% of the temporary service rendered by the respondent / writ petitioners for the purpose of computing the total length of service, so as to enable the writ petitioners get pension and gratuity benefits.

4. The learned Special Government Pleader submits that there are certain earlier orders passed by the learned single Bench, which were affirmed by the Hon'ble Division Bench and there is an issue which was not considered in the earlier cases with regard to the effect of Rule 4(a) of the Tamil Nadu Village Assistants Pension Rules, 1995.

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 that several orders passed by this Court as 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.

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.

SD

ASSISTANT REGISTRAR (CO)

TRUE COPY

SUB ASSISTANT REGISTRAR (CS)

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To

- 1.The Secretary,
Department of Revenue,
St.George Fort, Chennai.
- 2.The District Collector,
Tirunelveli District,
Tirunelveli.
- 3.The Tahsildar,
Sivagiri Taluk Office,
Now Kadayanallur Taluk Office,
Tirunelveli District.
4. The Principal Accountant General (A&E) Pension,
391 Anna Salai, Chennai.
- 5.The Secretary,
Department of Revenue,
Fort St George, Chennai.
- 6.The Tahsildar,
Ambasamudram, Tirunelveli District.

1CC TO MR. S. SRIMATHI, ADVOCATE SR 85400
1CC TO MR. T.S.MOHAMED MOHIDEEN, ADVOCATE SR 85067
1CC TO THE SPL GOVT PLEADER SR 85618

JMN(24.09.2019)4P : 10C

ORDER MADE IN W.A. (MD)Nos.886 to 893 of 2019
04.09.2019