



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.13764 of 2014

Kalyani

... Petitioner

-Vs-

1.The Secretary to the Government of Tamil Nadu,
Finance Department,
St. George Fort, Chennai.

2.The Secretary to the Government of Tamil Nadu,
Revenue Department, St. George Fort,
Chennai.

3.The Principal Accountant General of Tamil Nadu,
(Accounts & Entitlements),
361, Anna Salai, Chennai-600 018.

4.The District Collector,
Virudhunagar District,
Virudhunagar.

5.The Tahsildhar,
Sattur Circle, Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to consider the petitioner's husband S.Sadayappa Vallal's service as Village Karnam from 18.06.1965, Panchayat Clerk from 01.01.1991 to 01.08.1994 and as Village Administrative Officer from 12.08.1994 to 31.05.2002 for the purpose of pension, family pension and other terminal benefit and re-fix the same by extending the benefits available under G.O.Ms.No.756, dated 17.06.1993 and G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009 to the service rendered by the petitioner's husband, to pay the arrears of the pension, Gratuity and other terminal benefits from the date of the petitioner's husband's retirement to the date of his death (ie., 31.05.2002 to 25.02.2012) with interest at the rate of 18% per annum.

For Petitioner : Mr.P.Pethu Rajesh

For R1, R2,

R4 & R5 : Mr.S.Dhayalan,
Government Advocate.

For R3 : Mr.P.Gunasekaran

**ORDER**

The relief sought for in the present Writ Petition is for a direction to direct the respondents to consider the writ petitioner's husband S.Sadayappa Vallal's service as Village Karnam from 18.06.1965, Panchayat Clerk from 01.01.1991 to 01.08.1994 and as Village Administrative Officer from 12.08.1994 to 31.05.2002 for the purpose of pension, family pension and other terminal benefit and re-fix the same by extending the benefits available under G.O.Ms.No.756, dated 17.06.1993 and G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009 to the service rendered by the petitioner's husband, to pay the arrears of the pension, Gratuity and other terminal benefits from the date of the writ petitioner's husband's retirement to the date of his death (ie., 31.05.2002 to 25.02.2012) with interest at the rate of 18% per annum.

2.The learned counsel appearing on behalf of the writ petitioner states that the husband of the writ petitioner was initially appointed as Village Karnam on 18.06.1965. The husband of the writ petitioner was promoted to the post of Karnam and after abolition of the post of Village Karnam during the year 1980, he was re-appointed as Village Administrative Officer and retired from service on 31.05.2002. The husband of the writ petitioner was sanctioned with the pension and after his death, the writ petitioner is now receiving family pension.

3.The very claim set out in the present Writ Petition is stale. An employee, who served as part time Village Karnam, who was re-appointed, after the abolition of the post of Village Karnam during the year 1980 and thereafter, received family pension, had not filed Writ Petition for the purpose of regularizing the period of part time Village Karnam from the year 1965 to 1991. However, the wife of the deceased employee filed the present Writ Petition with prayer to regularize the period of part time Village Karnam in the year 2014, belatedly, after a lapse of 12 years from the date of retirement of the husband of the writ petitioner as Village Administrative Officer.

4.The very relief sought for in the present Writ Petition narrates that the husband of the writ petitioner late. S.Sadayappa Vallal was working as part time Village Karnam from 18.06.1965 to 01.01.1991.

5.The Tamil Nadu Abolition of Post of Part Time Village Officers Act (III) of 1981 was implemented and the husband of the writ petitioner also lost his job, on account of the abolition of the post of part time Village Karnam. However, the benefit of re-appointment was provided to the husband of the writ petitioner. He served as Village Administrative Officer and retired from service on



31.05.2002 itself.

6. Under these circumstances, the very claim set out in the present Writ Petition to regularize the period of service rendered by the husband of the writ petitioner as qualifying service, cannot be granted, in view of the fact that the claim itself is highly belated and the employee also passed away, after retirement from service during the year 2002.

7. In this regard, the learned Government Advocate appearing on behalf of the official respondents brought to the notice of this Court that the very same issue was settled by the Principal Seat of this Court in W.P.Nos.276 to 280 of 2009, dated 09.01.2009. The relevant paragraph is extracted hereunder:-

"23. There is yet another fallacy in the claim of the petitioners. They have prayed not merely for clubbing both services together but actually for counting even the period of break in service. To recapitulate, the prayer of the petitioners is to count their services from the date of their appointment in the erstwhile abolished post of Village Officers upto the date of their retirement in the newly created post. As seen from the tabular form given above, all the petitioners lost their jobs on 14.11.1980, the date of abolition of the post. They were re-employed after a break in service, ranging from 2 to 11 years. The petitioners have prayed for counting the services rendered in the abolished post along with the period of break in service (of about 2 to 11 years) and the period of their re-employment. Rules 24 and 25 of the Tamil Nadu Pension, Rules, which speak about the effect of interruption in service and provide for condonation of interruption, is not applicable to the petitioners, in respect of the break that they had. This is in view of the fact that the erstwhile post was not in a pensionable establishment. Therefore, viewed from any angle, the claim of the petitioners cannot be sustained."

8. The learned counsel appearing on behalf of the writ petitioner at last pleaded that the benefits due to the husband of the writ petitioner in the post of Village Administrative Officer are also to be settled. Undoubtedly, the services of the husband of the writ petitioner in the post of Village Karnam is to be taken into account as qualifying service for the purpose of settlement of the pensionary benefits as well as the family pension, though the writ petitioner is now receiving family pension. However, it is made clear that the husband of the writ petitioner was appointed to the post of Village Administrative Officer on regular basis and he served till 31.05.2002. Thus, the benefits as applicable to the



post of Village Administrative Officer in respect of the services rendered by the husband of the writ petitioner are to be settled in favour of the writ petitioner.

9. In this regard, the writ petitioner is at liberty to submit a fresh representation, setting out of these facts and circumstances and on receipt of the same, the respondents are directed to verify the service records of the husband of the writ petitioner and accordingly, settle all the pensionary benefits, including arrears of pension and family pension as applicable with reference to the Tamil Nadu Pension Rules in force as expeditiously as possible, preferably, within a period of twelve weeks from the date of receipt of a copy of this order.

10. With these directions, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Secretary to the Government of Tamil Nadu,
Finance Department,
St. George Fort, Chennai.

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3. The Principal Accountant General of Tamil Nadu,
(Accounts & Entitlements),
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4. The District Collector,
Virudhunagar District,
Virudhunagar.

5. The Tahsildhar,
Sattur Circle, Virudhunagar District.

+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-79101[F] dated 01/08/2019)

+1 CC to M/s.P.PETHU RAJESH, Advocate (SR-78802[F] dated 31/07/2019)

+1 CC to M/s.SPL GP (SR-79212[F] dated 01/08/2019)

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