



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD) No.20883 of 2019

P.Vijayakumari

... Petitioner

-Vs-

1.The Principal Secretary to Government
Social Welfare Department
Secretariat, Chennai 600 009

2.The Commissioner of Social Welfare
Panagal Maaligai 2nd Floor
Saidapet, Chennai 600 015

3.The District Project Officer
Child Welfare Scheme
Collectorate Complex
Ramanathapuram
Ramanathapuram District

... Respondents

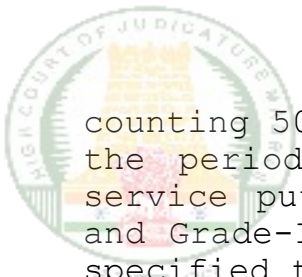
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the second respondent ie. the Commissioner of Social Welfare, Chennai in his e.f.vz;.23809/eph;3(2)/2019 ehs;; 08.08.2019 and quash the same and consequently direct the first respondent ie. the Principal Secretary to Government, Social Welfare Department, Chennai to instruct the District Project Officer, Child Welfare Scheme, Ramanathapuram to send pension proposals to the Accountant General, Chennai in respect of the petitioner Tmt.P.Vijayakumari counting 50% of services put in by the petitioner as Bala Sevika for the period from 18.01.1982 to 18.04.2012 and regular time scale service put in by the petitioner as Rural Welfare Officer Grade-I and Grade-II for the period from 19.04.2012 to 31.01.2018 within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.C.M.Mari Chellaiah Prabhu
Additional Government Pleader

ORDER

This Writ Petition has been filed to call for the records of the second respondent ie. the Commissioner of Social Welfare, Chennai, in his e.f.vz;.23809/eph;3(2)/2019 ehs;; 08.08.2019 and quash the same and consequently, direct the first respondent I.e. the Principal Secretary to Government, Social Welfare Department, Chennai, to instruct the District Project Officer, Child Welfare Scheme, Ramanathapuram, to send pension proposals to the Accountant General, Chennai, in respect of the petitioner Tmt.P.Vijayakumari



counting 50% of services put in by the petitioner as Bala Sevika for the period from 18.01.1982 to 18.04.2012 and regular time scale service put in by the petitioner as Rural Welfare Officer Grade-I and Grade-II for the period from 19.04.2012 to 31.01.2018, within a specified time to be fixed by this Court.

WEB COPY

2.The petitioner was initially appointed as Bala Sevika in the Bogalur Panchayat Union, Paramakudi Taluk, Ramanathapuram District as per proceedings of the District Social Welfare Officer, Ramanathapuram, in R.C.No.9537/A1/81, dated 13.01.1982 and the said appointment was made through Employment Exchange and on consolidated pay. The petitioner joined in the said post on 19.01.1982. Thereafter, she was absorbed in the regular time scale of pay as Rural Welfare Office Grade-II. Her service was regularized on 19.04.2012 and thereafter, she was promoted as Rural Welfare Officer Grade-I as per proceedings of the second respondent dated 25.01.2016 and her service was regularized in the said post on 04.02.2016. The petitioner retired from service on 31.01.2018 on attaining the age of superannuation.

3.According to the petitioner, her service in the department on consolidated pay from 18.01.1982 to 18.04.2012 nearly 30 years and her service in the cadre of Rural Welfare Officer Grade -II and Grade-I in the regular time scale was from 19.04.2012 to 31.01.2018 ie. nearly 6 years and thus, her total service in the department is 36 years. As per Rule 11(4) of the Tamil Nadu Pension Rules, 50% of the service rendered by the employees, who are in non-provincialized service on consolidated pay/honorarium/daily wages basis, has to be taken into account for the purpose of calculating pension. Hence, the petitioner gave representation on 06.07.2019. However, the same was not considered by the respondents. Hence, the petitioner has come up with the present Writ petition.

4.The learned Additional Government Pleader appearing for the respondents through their Counter affidavit submitted that the service rendered by the petitioner could not be calculated, since the Government has taken a policy decision to regularize the services of the various employees like that of the petitioner herein, only from 01.04.2003 and therefore, the petitioner is not entitled to seek relief sought for by her in the Writ petition.

5.Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents.

6.The claim of the petitioner is that 50% of service on temporary service rendered by her has to be taken into account for calculating pension payable to her, as per Rule 11(4) of the Tamil Nadu Pension Rules. The issue was already considered by this Court.



The issue involved in this Writ petition is no longer *res integra*. Considering the submission made by the learned counsel on either side, the order impugned in the Writ petition is set aside. The respondents are directed to count 50% of services put in by the petitioner as Bala Sevika for the period from 18.01.1982 to 18.04.2012 and regular time scale service put in by the petitioner as Rural Welfare Officer Grade-I and Grade-II for the period from 19.04.2012 to 31.01.2018, within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ petition is allowed. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

msa
To

1. The Principal Secretary to Government
Social Welfare Department
Secretariat, Chennai 600 009
2. The Commissioner of Social Welfare
Panagal Maaligai 2nd Floor
Saidapet, Chennai 600 015
3. The District Project Officer
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Ramanathapuram
Ramanathapuram District

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-97316[F] dated
+1 CC to M/s.SPL GP (SR-98059[F] dated 13/11/2019)

SMA/08/01/2020/3P/6C

W.P. (MD) No.20883 of 2019

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