



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE **S.S. SUNDAR**

W.P. (MD) .No.3822 of 2014

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K.Dharmaraj @ Vijayakrishnan

.. Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Revenue Divisional Officer,
Sivakasi.

3.The Tahsildar,
Sivakasi Taluk,
Sivakasi.

4.Accounts and Audit General,
Anna Salai,
Chennai - 600 018.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents to pay the petitioner the pension amount as per G.O.Ms.No.828, Revenue Department, dated 23.08.1996, from the period from 05.12.1986 to 31.12.1990 and 01.06.2007 during his life time and subject to other conditions in the above Government Order and also by implementing G.O.(Nilal)No.396 (Revenue Service - I), Department, dated 12.11.2012 and any other subsequent orders, in respect to the employment of the petitioner, as the Village Headman, within a time frame as may be fixed by this Court.

For Petitioner : M/s.P.Jessi Jeeva Priya for
Mr.N.Subramanian

For Respondents: Mr.R.Murugan for R1 to R3
Additional Government Pleader
Mr.P.Guna Sekaran for R4

ORDER

This writ petition has been filed for issuance of Writ of Mandamus directing the respondents to pay the petitioner the pension amount as per G.O.Ms.No.828, Revenue Department, dated 23.08.1996, from the period from 05.12.1986 to 31.12.1990 and 01.06.2007 during



his life time and subject to other conditions in the above Government Order and also by implementing G.O.(Nilal)No.396 (Revenue Service - I), Department, dated 12.11.2012 and any other subsequent orders, in respect to the employment of the petitioner, as the Village Headman, within a time frame as may be fixed by this Court.

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2.The brief facts that are necessary for the disposal of the writ petition are as follows:

The petitioner was originally appointed as Village Headman on 09.10.1975 on permanent basis. It is admitted that he was kept under suspension pending disciplinary proceedings. However, it is stated that writ petitioner was not inflicted with any punishment and the details of disciplinary proceeding is not clear from the pleadings in the affidavit filed in support of the petition. Later the Government abolished the post of Village Headman by an Act and the petitioner was ousted from the post of Village Headman. The petitioner states that he was appointed later as Assistant in the same village panchayat namely Chindhapalli Village with effect from 01.01.1991 till 31.05.2007. The petitioner retired from service on attaining superannuation on 31.05.2007. The petitioner states that the abolition of post of Headman was challenged before the Honourable Supreme Court and that the Honourable Supreme Court gave a judgment to provide employment to all those who were holding the post as on 14.11.1980. It is also stated by the petitioner that he filed O.A.No.8997/1998 before the Tamilnadu Administrative Tribunal, Chennai Bench, challenging the order, dated 08.07.1998 denying employment. The petitioner further admits that he is not aware of the fate of the proceedings instituted by him in O.A.No.8997 of 1998 as he did not follow it up. The petitioner also admitted that he was in employment as Panchayat Assistant from 01.01.1991 to 30.05.2007. But he would submit that he is eligible to receive the pension amount under Rule 11 of Pension Rules. It is seen that his earlier appointment as Village Headman and the abolition of the post has nothing to do with the subsequent employment of petitioner as Panchayat Assistant which is a new post un connected with the earlier service. However, it appears that the Government has issued a Government order vide G.O.Ms.No.828, Revenue dated 23.08.1996 to grant pension to all such Village Headman. It is stated that as on 05.12.1986 the petitioner was in service and hence he is entitled to receive pension as notified.

3.The question is whether the petitioner is entitled to the benefit of G.O.Ms.No.828, Revenue Department, dated 23.08.1996 by taking into consideration the period from 05.12.1986 to 31.05.2007. The petitioner further states that the earlier Government order has been clarified by subsequent instructions. The position is clarified by the Government in the letter issued by the Secretary to Government to Deputy Accountant General (Pensions). The clarification of the Government as per the letter dated 25.02.1997



"Ex-Village officers who lost service on 14.11.1980 and subsequently appointed as Panchayat Assistants, are not eligible for pension while in second service. But they are eligible for pension from 05.12.1986 till the date prior to the appointment as Panchayat Assistant. If they were retired without getting any pension on the post of Panchayat Assistant, they are eligible for ex-village officers pension after retirement from that service. Their pension papers need be entertained only after superannuation."

4.It is admitted before this Court that the petitioner is entitled to the scheme benefit as Ex-village Headman who lost service on 14.11.1980. However, the petitioner is entitled to get the pension in terms of Government order if he retire without receiving pension in the post of Panchayat Assistant. From the nature of clarification issued by the respondent, the learned counsel for the respondent would submit that the petitioner will be entitled to get the benefit of Government order only if the factual position is clarified by the petitioner. The petitioner asserts that he is not receiving pension for the second employment. It is further stated that the respondent did not pass orders despite an earlier direction by this Court and recommendation of Revenue Divisional Officer.

5.In the said circumstances, this Court is inclined to pass the following order.

a)The petitioner is directed to submit a representation along with the particulars of petitioner's service as Panchayat Assistant from 1991 to 2007 within a period of four weeks from the date of receipt of a copy of this order.

b)The petitioner is also permitted to exercise his option whether to he get pension which is applicable to the post of Panchayat Assistant or to claim the benefit of G.O.Ms.No.828, Revenue Department, dated 23.08.1996 as clarified by the Government in the letter, dated 25.02.1997.

c)The District Collector shall pass appropriate orders within a period of six weeks from the date of such representation. Since the Collector is the competent authority, he may also verify the particulars about the employment of the petitioner as Panchayat Assistant from 1991 to 2007. If the petitioner is eligible for pension, the same shall be disbursed with arrears without interest within twelve weeks from the date receipt of copy of this order. If there is further delay, the petitioner is entitled to interest at 12%.



6. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (Crl.Side)

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Sub Assistant Registrar (CS)

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To

1. The District Collector,
Virudhunagar District,
Virudhunagar.
2. The Revenue Divisional Officer,
Sivakasi.
3. The Tahsildar,
Sivakasi Taluk,
Sivakasi.

+1 CC to GP SR-89809.

+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate SR-89427.

+1 CC to Mr.P.GUNASEKARAN, Advocate SR-89665.

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