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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2020

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.8735 of 2013

M.S.Venkatrama Iyer

... Petitioner

Vs.

State rep. by its Secretary,
Revenue Department,
Government of Tamilnadu,
Chennai - 600 009.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondent to extend the benefits as per G.O.Ms.No.42 dated 07.02.2011 to the petitioner.

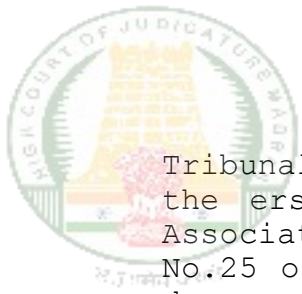
For Petitioner : Ms.V.Meenakshi
for B.S.G.Firm

For Respondents : Mr.S.Thangavel
Spl. Government Pleader

O R D E R

This Writ Petition has been filed to direct the respondent to extend the benefits as per G.O.Ms.No.42 dated 07.02.2011 to the petitioner.

2. The writ petitioner is the President of the Tamilnadu Village Officers Rights Protection Committee. According to the writ petitioner, the members of the writ petitioner association have served as Village Officers prior to 1980. The Government of Tamilnadu had issued an Ordinance abolishing the post of part time Village officers with effect from 14.11.1980 and all the erstwhile Village Officers were relieved from the aforesaid post on the date of abolition of the said post. While so, Ex-Village Officers made a request to the Government to pay pension to the Ex-Village Officers for their services rendered in the Department. By an Order dated 08.11.1991 in TA.164/1990, the



Tribunal had passed an Order by granting pensionary benefits to the erstwhile Village Officers. Subsequently, the petitioner Association also preferred a Review Petition in Review Petition No.25 of 92 to direct the respondent to pay pension along with dearness allowance as applicable as on 14.11.1980. The Tribunal directed the respondent to pay the pension amount of Rs.175/- per month with attended benefits and Rs.100/- pension to the family of the deceased. Assailing the aforesaid Order, the Department has preferred an appeal before the Supreme Court in Appeal No.6062 of 1994 and subsequently, the aforesaid appeal was withdrawn and the Order passed by the Tribunal was given effect by the Government Order No.828, dated 23.08.1996.

3. The grievance of the writ petitioner Association is that the dearness allowance given to the Government employees was not extended to the petitioner, Ex-Village Officers. Therefore, as per the Orders in W.P.No.11773 of 1986, writ petitioner is also entitled for the revision of dearness allowance on par with the Government employees and the Government has passed a Government Order in G.O.No.42 dated 07.02.2011 for the Government employees and as the Ex-Village Officers were also Government Servant as held by the Tribunal in the above writ petition, they are also entitled to dearness allowance on par with the Government employees. Therefore, the petitioner made a representation on 01.04.2013 to pay the same benefits to the members of the writ petitioners as per the Government Order No.42 dated 07.02.2011.

4. The learned Special Government Pleader appearing for the respondent filed a detailed counter and submitted that on the representation presented by the Ex-Village Officers Association to Chief Minister requesting enhancement of the Ex-Village Officers pension and family pension to their families, the Government had decided to sanction special pension of a sum of Rs.175/- per month with attendant benefits in G.O.(Ms.).No.828, Revenue (E.Spl) Department, dated 23.08.1996 and the same was enhanced to Rs.250/- per month with attendant benefits vide G.O. (Ms). No.629, Revenue (Ser.VII) Department, dated 22.07.1998. The learned Special Government Pleader further submitted that whenever representation received from the Ex-Village Officers Association to Government requesting to enhancement of the Ex-Village Officers pension and family pension to their families, the Government had issued separate G.Os. for enhancing the special pension and family pension to the Ex-Village Officers. Further it has been submitted that since the post of Village Karnam was not governed by Tamilnadu Pension Rules, 1978, and they are not eligible to claim on par with the other Government servants who are receiving pension under Tamilnadu Pension Rules, 1978 and the writ petitioner mislead the Court stating that several G.Os. were passed by the respondent in which the



petitioners were made eligible to claim or were kept on par with the other Government servant who were receiving pensions. The learned Special Government Pleader further submitted that in G.O.(Ms.)No.105, Finance (Pay Cell) Department, dated 07.02.2006 the Government had issued orders to merge 50% of dearness allowance with basic pay/pension with the basic pay with effect from 01.01.2006 and in the said G.O., it is clearly stated that the merger of 50% of Dearness allowance with basic pay, shall be admissible to full time employees who are at present getting dearness allowance and paid from contingencies at fixed monthly rates and the merger of 50% of Dearness Allowance sanction in this Order shall not be admissible to part-time employees. However, the Government had issued a separate Orders for merging 50% of Dearness allowance as Dearness Pension with special pension of Rs.350/- per month with effect from 24.01.2008 to the Ex-Village Officers vide G.O.(Ms). No.40, Revenue (Ser 8 (2)) Department, dated 24.01.2008. Further the learned Special Government Pleader submitted that in G.O.(Ms). No.105, Finance (Pay Cell) Department, dated 07.02.2006, it has been clearly mentioned that the merger of 50% of Dearness allowance sanctioned in this order shall not be admissible to part-time employees and the post of Village officers was a part time and non-pensionable post. Hence, submitted that above G.O. is not applicable to the Ex-Village Officers and prayed for dismissal of this writ petition.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

6. The members of the Village officers were part time employees and their post is a non pensionable post. In view of the fact that the Village Officers are part time employees, the Tamilnadu Pension Rules 1978 is not applicable to the Ex-Village Officers. Hence, G.O. Ms.No.42 is not applicable to the petitioners. The village Karnam and Village Officers were in non pensionable service. But the newly created Village Administrative Officer is in pensionable service and the qualification and other functions of Village Karnam and Village Administrative Officer posts are different as follows :



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Criteria	Village Karnam	Village Administrative Officer
Post Details	"Part-time Village Officer" means one of Village Headman (including Additional Village Headman), Village Karnam (including Chief Karnam and Additional Village Karnam) or Triune Officer. The erstwhile part-time Village Officer posts were abolished by Ordinance on 14.11.1980	"Village Administrative Officer" means only one official for a Village. A separate category for Village Administrative Officer Post under 14-A of T.N. Ministerial Service Rules has been created.
Qualifications	Should be able to write and perform duties to the satisfaction of Revenue Divisional Officer.	As per G.O.(Ms).No.1195, Revenue Department, dated 06.07.1982, selection of Village Administrative Officers from among the Ex-Village Officers should be made on the following guidelines : i) Should have been on duty on 14.11.1980 as Village Officer. ii) Possession of minimum General Educational Qualification, i.e., should have passed the S.S.L.C. Examination.

7. Considering the above fact, the Government considered the request of the Village Officers for granting of pensionary benefits and accordingly Government Orders have also been issued. Therefore, the writ petitioner cannot compel the respondent to grant the benefits as availed by the other Government employees as per G.O.Ms.No.42 and same cannot be extended to the Ex.Village Officers. Further, the petitioner has filed the present writ petition in the individual capacity and has stated that he is representing the association and the same is also not maintainable. In view of the above circumstances, this Court cannot grant the relief prayed for by the writ petitioner.



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8. Accordingly, this Writ Petition is dismissed. No cost.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Secretary,
Revenue Department,
Government of Tamilnadu,
Chennai - 600 009.

W.P. No.8735 of 2013

ad[co]
srg 09/07/2020