



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.3895 of 2010

A.Alagiri

... Petitioner

-Vs-

1. The Accountant General (A&E) Tamil Nadu,
261, Anna Salai, Chennai-600 018.

2. The Tahsildar,
Thirumangalam Taluk,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in PPO No.C330041/VAS, dated 26.04.2009 and quash the same and consequently, direct the respondents to revise and pay the petitioner's pension with interest by taking into consideration the qualifying service from the date of appointment on 14.03.1976 till the date of retirement on 30.04.2002.

For Petitioner	: Mr.M.Kannan
For R1	: Mr.P.Gunasekaran
For R2	: Mr.P.Mahendran
	Additional Government Pleader

ORDER

The relief sought for in the writ petition is to quash the order of the first respondent, dated 26.04.2009, regarding the sanction of pension and to direct the respondents to revise the pension by counting the qualified service from the date of initial appointment as temporary employees.

2.The service of the writ petitioner was regularised from 01.06.1995. The dispute arose whether the earlier service rendered by the writ petitioner should be counted for the purpose of calculating the qualifying service. However, the disputes had already been settled by the Hon'ble Division Bench of this Court in **W.A. (MD)Nos.1254 and 1255 of 2019**, dated **19.11.2019**. The Appeals preferred by the State were dismissed by the Hon'ble Division Bench of this Court and the relevant paragraphs are extracted hereunder:-



"...11. Therefore, in our considered view, the interpretation sought to be made before us by referring the Conduct Rules, 1983 and more particularly Rule 3 thereunder to state that all village servants are deemed to be part-time servants. However, this argument is not acceptable. More or less an identical issue was raised before the Honourable Division Bench in the case of the District Collector, Nagercoil and another vs. K.Raman Nair in W.A.No.16 of 2009 and the appeal filed by the State was dismissed and at this juncture, it would be relevant to take note of the following finding:

"7.The persons who were appointed as per the proceedings dated 21st July, 1975 cannot be guided pursuant to the order of regularisation contained in G.O.Ms.No.625, Revenue Department, dated 6th July, 1995. Even the said Government Order says that the services of persons appointed as part-time Village Assistants were regularised in the time scale of pay of Rs.600-10-750. If the writ petitioner was appointed on 21st July, 1975, along with others, on temporary basis in the scale of pay fixed for Village Assistants, the respondents cannot deny pensionary benefits to the writ petitioner and others who were so appointed along with him, giving reference to G.O.Ms.No.625, Revenue Department, dated 6th July, 1995, as payment of pension is guided by statutory rule. Therefore, the said Government Order 625, Revenue Department, dated 6th July, 1995 is applicable only to those who were initially appointed as part-time Village Assistants and subsequently given Full Time appointment by providing scale of pay to the post of Village Assistants at Rs.600-10-750 and not to those, like the petitioner, who were already temporary Village Assistants in the regular scale of pay.

12. Apart from the above decision, there are various other decisions of the Honourable Division Benches and Honourable Single Benches and many of which are stated to have been implemented. Therefore, in our considered view, the decision in the case of C.Chellaswamy and others vs. State of Tamil Nadu and Others in W.P(MD)Nos.3496 to 3498 of 2015, dated



10.07.2019, rejecting the prayer sought for in the writ petition does not lay down the correct legal principles. More so, in the light of the earlier decisions of the Honourable Division Benches as pointed out by us earlier, mere reference of Rule 3 of the Conduct Rules, which grants permission for part-time village servants to take up part-time work or occupation, will not term all the employments as part-time employments. Furthermore, the Government had taken into consideration the nature of working conditions and then took a policy decision to bring them into regular time scale of pay. Thus, considering all these factors, we are of the view that the order passed in the writ petitions does not call for any interference..."

3. In view of the Judgment of the Hon'ble Division Bench cited *supra*, the impugned order passed by the first respondent, dated 26.04.2009 is quashed and the writ petition stands allowed. The writ petitioner is permitted to submit a representation setting out the facts and details to the competent authorities/respondents and the competent authorities/respondents are directed to extend the benefit by verifying the service details, as expeditiously as possible, preferably, within a period of six months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (A.S)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj

To

The Tahsildar,
Thirumangalam Taluk,
Madurai District.

W.P. (MD) .No.3895 of 2010
13.10.2020

(CO)

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