



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.10289 of 2020

M.Soundarapandian

... Petitioner

Vs.

1) The Principal Secretary to Government,
Revenue Department,
Secretariat, Chennai 600 009

2) The Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai 600 005

3) The District Collector,
Madurai District,
Madurai.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st respondent i.e. the Principal Secretary to Government Revenue Department, Secretariat, Chennai to pass orders counting 50 percent of services of the petitioner as Thalayari for the period from 08.11.1984 to 31.05.1995 for the purpose of calculation of pension along with regular services put in by him as Village Assistant and arrange to send revised pension proposals within a specified time frame.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.G.Arjunan,
Government Advocate

O R D E R

The prayer sought for in this writ petition is for a Writ of Mandamus, seeking for a direction to the 1st respondent i.e. the Principal Secretary to Government, Revenue Department, Secretariat, Chennai to pass orders counting 50 percent of services of the petitioner as Thalayari of the period from 08.11.1984 to 31.05.1995



for the purpose of calculation of pension along with regular services put in by him as Village Assistant and arrange to send revised pension proposals within a specified time frame.

2. The petitioner was initially appointed as permanent 'Thalayari' on 24.10.1984 and he had been working from that date till 31.05.1995 in Alagapuri Village, Vadipatti Taluk, Madurai District. The said appointment was made on permanent basis. Thereafter, along with similarly placed persons, who have been working as 'Thalayari' or 'Vetti', he has been absorbed with regular time scale of pay with a re-designation of post as Village Assistant, with effect from 01.06.1995. Thereafter, the petitioner on superannuation retired from service on 31.05.2019. After superannuation, he was given pension only by calculating the service he rendered from 01.06.1995 till his superannuation and the service rendered by him prior to 01.06.1995 was not taken into account for the purpose of pensionary benefits.

3. In this context, many number of cases have been filed before this Court and the issue has been settled by orders of this Court, which have been confirmed by the Hon'ble Supreme Court also, where the 50% of the service rendered by the 'Vetti' and 'Thalayari', like the petitioner, prior to their brought in regular time scale of pay on 01.06.1995 shall be taken into account for calculating the total pensionary services and accordingly, it has to be calculated and be paid to the petitioner.

4. Since the said benefit has not been extended to the petitioner, the present writ petition has been filed with the aforesaid prayer.

5. As has been stated above, a number of cases have been disposed of in this nature and very recently, I had an occasion to pass one order similar to that of the petitioner herein, in W.P.(MD) No.7392 of 2020 dated 08.07.2020, where after having considered the earlier orders passed by this Court, I have allowed the said writ petition with the following order:

"7.However, Mr.S.Dhayalan, learned Government Advocate appearing for the respondents would submit that though the petitioner was appointed on 22.08.1985 as Thalayari i.e. Village Assistant, he was only a part time employee and he was brought under regular time scale of pay only from 01.06.1995 and prior to the said date, what service he is rendered was only a part time service, therefore, the said service cannot be taken into account for the purpose of pensionary benefits.

8.The said objection made by the learned Government Advocate appearing for the respondents cannot be countenanced, because, these issues have already been decided in a number of decisions as has been



referred to above and therefore, such an objection can no longer be a valid reason opposing the prayer sought for herein.

9. In view of the above, by following the earlier decisions of this court including the Division Bench decision referred to above, I am inclined to pass the following orders:

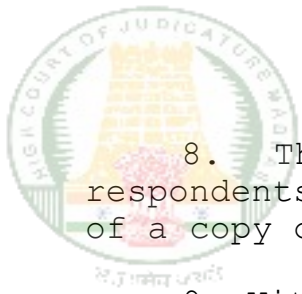
"The respondents are directed to pass necessary orders on the request of the petitioner by calculating the earlier service rendered by the petitioner from the date on appointment i.e. 22.08.1985 till 01.06.1995, the date on which, the petitioner was brought in regular time scale of pay and the said past service prior to 01.06.1995 be added for the purpose of calculating the pension payable to the petitioner. Accordingly, the pensionary benefits can be modified and the revised pension can be calculated and be paid to the petitioner with arrears and shall continue to pay the revised pension to the petitioner till his life time. The aforesaid exercise shall be undertaken by the respondents within a period of two months from the date of receipt of a copy of this order.

10. With these directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed."

6. The learned Government Advocate appearing for the respondents is not disputing the legal position and submitted that a number of orders to that effect were passed as stated above, including the latest order referred to above.

7. Since the petitioner is also similarly placed, he is also entitled to get the benefit of calculating 50% service rendered by him from 01.06.1995 for the purpose of his total pensionary services. In view of the above, this Court is inclined to dispose of this writ petition by following the earlier orders of this Court with following directions:

"the respondents are directed to pass necessary orders on the request of the petitioner, by calculating the earlier services rendered by the petitioner from the date of appointment (i.e.) 24.10.1984 till 31.05.1995, the date on which the petitioner was brought in regular time scale of pay and the said past service between 24.10.1984 and 31.05.1995 be added for the purpose of calculating the pension payable to the petitioner. Accordingly, the pensionary benefits can be modified and a revised pension be calculated and paid to the petitioner with arrears and shall continue to pay the revised pension to the petitioner till his life time."



8. The aforesaid exercise shall be undertaken by the respondents within a period of two months from the date of receipt of a copy of this order.

9. With this directions, the Writ Petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

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Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1) The Principal Secretary to Government,
Revenue Department,
Secretariat, Chennai 600 009
- 2) The Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai 600 005
- 3) The District Collector,
Madurai District,
Madurai.

Order made in
W.P. (MD) No.10289 of 2020

Dated: 28.08.2020

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SDS (01.10.2020) 4P-4C