



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.[MD]No.15453 of 2020

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P.Gurusamy

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by its Additional Chief Secretary to Government,
Revenue and Disaster Management Department,
Services Wing, St.George Fort,
Secretariate, Chennai-600009.

2.The Additional Chief Secretary/
Commissioner of Revenue Administration,
Ezhilagam, Chepauk, Chennai-600005.

3.The Accountant General (A&E),
Office of the Accountant General,
Anna Salai,
Chennai-600018.

4.The District Collector,
Tuticcorin District, Tuticorin.

5.The Tahsildar,
Kovilpatti Taluk,
Kovilpatti,
Tuticorin District.

... Respondents

PRAYER : This Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, to direct the respondents to count 50% of the petitioner's service as Village Assistant on consolidated pay basis from 31.03.1978 to 31.05.1995 along with the petitioner regular service from 01.06.1995 to 30.04.2015 and sanction full pension in terms of Rule-11 of the Tamil Nadu Pension Rule, 1978 and pay arrears of full pension within the time frame as fixed by this Court and for other reliefs.

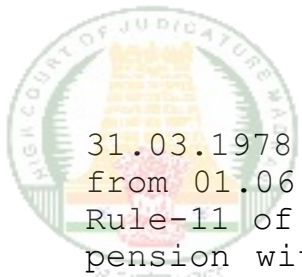
For Petitioner : Mr.J.Lawrance

For Respondents : Mr.M.Karuppasamy
Government Advocate

O R D E R

The petitioner filed this present writ petition seeking for a direction to the respondents to count 50% of the petitioner's service as Village Assistant on consolidated pay basis from

<https://hcservices.ecourts.gov.in/hcservices/>



31.03.1978 to 31.05.1995 along with the petitioner regular service from 01.06.1995 to 30.04.2015 and sanction full pension in terms of Rule-11 of the Tamil Nadu Pension Rule, 1978 and pay arrears of full pension within the time frame as fixed by this Court and for other reliefs.

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2.The learned counsel appearing for the petitioner would submit that the petitioner was originally appointed as Village Assistant on temporary basis on 31.03.1978. Thereafter, his service was regularised on 01.06.1995 and he was brought under Time Scale of Pay.After serving 37 years, he was retired from service on 30.04.2015. The petitioner rendered his service without any adverse remarks. Thereafter, the petitioner made a representation on 26.03.2019, wherein he requested the respondents to count 50% of his service as Village Assistant on consolidated pay basis from 31.03.1978 to 31.05.1995 along with his regular service from 01.06.1995 to 30.04.2015 and sanction full pension in terms of Rule 11 of the Tamil Nadu Pension Rule, 1978 and pay arrears of full pension. However, the said representation has not been considered so far till date. Hence, he approaches this Court to pass appropriate order.

3.The learned counsel appearing for the petitioner while making his submission, he refers to the Judgement of the Full Bench of this Court in the case of **Government of Tamil Nadu Vs. R.Kaliyamoorthy** reported in **(2020) 2 MLJ 369**, wherein paragraph No.45, it has held as follows:-

45. In the light of the above, we answer the reference as follows:-

i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of W.A.No.158 of 2016 etc., batch proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003

(ii) Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.

(iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.



(iv) Those government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.

(v) Those government servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension."

4.By referring paragraph No.45(iii) of the aforementioned judgment, the learned counsel appearing for the petitioner would submit that the petitioner's service was regularised before 01.04.2003. Therefore, he is entitled to half of the service rendered shall be counted for the purpose of conferment of pensionary benefits.

5.Per contra, the learned Government Advocate appearing for the respondents refers to the order of this Court dated 15.03.2018 in W.P(MD) No.882 of 2018, wherein the similar benefit was granted to the petitioner. Against the said order, the respondents have filed an appeal before this Court in W.A.(MD) No.SR45283 of 2018. Therefore, no relief can be granted to the petitioner.

6.In view of the aforesaid submissions, this Court is of the view that the issue to be decided in this writ petition is only whether 50% of the temporary service can be counted for the purpose of providing pensionary benefits or not. That issue already came up for hearing before the Full Bench of this Court and this Court has held that whoever appointed before 01.04.2003, their half of the temporary services rendered shall be counted for the purpose of conferment of pensionary benefits. Therefore, the issue is no more *res integra*.

7.In view of the settled proposition of law, I do not see any impediment for the respondents to grant pensionary benefits. Accordingly, this Court directs the respondents to dispose of the petitioner's representation dated 26.03.2019, on merits and in accordance with law taking into consideration of the law laid down by the Hon'ble Full Bench of this Court in the case of **Government of Tamil Nadu Vs. R.Kaliyamoorthy** reported in (2020) 2 MLJ 369 within a period of eight weeks from the date of receipt of copy of this order.



8. With the above directions, this Writ Petition is disposed of.
No costs.

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Sd/-

Assistant Registrar

/ /2020

Sub Assistant Registrar(CS)

cp

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 Additional Chief Secretary to Government,
State of Tamil Nadu,
Revenue and Disaster Management Department,
Services Wing, St. George Fort,
Secretariat, Chennai-600009.
2. The Additional Chief Secretary/
Commissioner of Revenue Administration,
Ezhilagam, Chepauk, Chennai-600005.
3. The Accountant General (A&E),
Office of the Accountant General,
Anna Salai, Chennai-600018.
4. The District Collector,
Tuticcorin District, Tuticorin.
5. The Tahsildar,
Kovilpatti Taluk,
Kovilpatti, Tuticorin District.

+1 CC to M/s.J.LAWRANCE, Advocate (SR-21401[F] dated 06/11/2020)

+1 CC to M/s.GP (SR-21468[F] dated 06/11/2020)

W.P. [MD] No.15453 of 2020
05.11.2020

CK(CO)

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