



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.S.RAMESH**

W.P. (MD) No.966 of 2016

Valliyammal

... Petitioner

/vs./

1.The District Collector,
Madurai District, Madurai.

2.The Tahsildar,
Madurai North Taluk,
Madurai District.

3.The Accountant General,
Accounts and Entitlement, Tamilnadu
361, Anna Salai, Chennai - 600 018.

4.The Principal Secretary to Government,
Revenue Department,
Secretariat, Chennai.

[R4 has been impleaded as suo motu
vide order dated 10.02.2020
in WP (MD) No.966/2016]

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to sanction of family pension the pensionary benefits to the petitioner from the date of retirement of petitioner's husband.

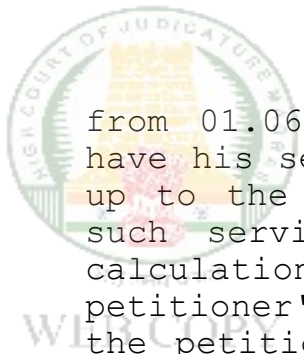
For Petitioner	: Mr.K.Ramamoorthy
For R1 & R2	: Mr.M.Jeyakumar
	Additional Government Pleader
For R3	: Mr.P.Gunasekaran

ORDER

This writ petition is filed to direct the respondents to sanction of family pension and the pensionary benefits to the petitioner from the date of her husband's retirement.

2.It is brought to the notice of this Court that the pensioner has expired and the petitioner herein is now claiming family pension. The issue involved in the present writ petition is as to whether the services of the petitioner's husband prior to 01.06.1995, could be counted for the purpose of calculating the pensionary benefits.

3.The petitioner's husband has been serving on consolidated basis prior to 01.06.1995 and by G.O.Ms.No.625, dated 06.07.1995, his services as Village Assistant came to be regularized with effect

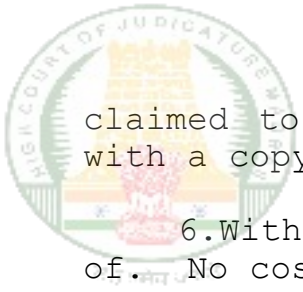


from 01.06.1995. The entitlement of the petitioner's husband to have his services counted prior to 01.06.1995 came to be challenged up to the Hon'ble Supreme Court and ultimately, it was held that such services could be taken into account for the purpose of calculation of pension. When such benefits were not extended to the petitioner's husband, the present writ petition came to be filed by the petitioner herein before this Court and this Court in various writ petitions has placed reliance on Rule 11 (4) of the Tamilnadu Pension Rules and had been consistently directing the Government to take into account, half of the services rendered by the petitioners in non provincilised services on consolidated pay, for the purpose of calculation of retirement benefits. In one such order passed in W.A.(MD) No.370 of 2019 dated 22.10.2019, the Hon'ble Division Bench of this Court has held as follows:

17..... In such circumstances, this Court is of the view that there is no scope for reference to a larger Bench and that the order impugned in W.P.(MD) No.70 of 2019 is set aside. The writ petition in W.P.(MD) No.70 of 2019 stands allowed in tune with the earlier precedents of this Court. The first respondent is directed to pass orders counting 50% of the services of the appellant put in by him as Thalayari for the period from 07.01.1983 to 31.05.1995 for the purpose of calculation of pension along with regular services put in by him as Village Assistant and Village Administrative Officer and to send revised pension proposals, within a period of six weeks from the date of receipt of a copy of this order.

4.In view of the consistent stand taken by the Hon'ble Division Bench of this Court in identical cases, I am unable to take any contrary view. Furthermore, this Court is also of the view that 50% of the past services of the petitioner's husband till 01.06.1995 could be taken into account for the purpose of calculation of pensionary benefits. For the purpose of directing the State, this Court *suo motu* impleads the Principal Secretary to Government, Revenue Department, Secretariat, Chennai, as 4th respondent in this writ petition.

5.In the light of the above observations, the fourth respondent is directed to consider the petitioner's representation and pass positive orders counting 50% of the petitioner's husband services from the date of his initial appointment till 31.05.1995 along with regular services put in by him as Village Assistant. Consequently, the fourth respondent herein shall send the revised pension proposals to the third respondent herein, atleast within a period of 8 weeks from the date of receipt of a copy of this order, who in turn shall consider the same as expeditiously as possible, in any event, within a period of four weeks therefrom. The petitioner is also called upon to give a copy of her representation which is



claimed to have been already sent to the fourth respondent along with a copy of this order.

6. With the above directions, this Writ Petition stands disposed of. No costs.

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Sd/-

Assistant Registrar (W)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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To

1. The District Collector,
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SMA/23/03/2020/3P/5C