



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.13798 OF 2016

AND

W.M.P.NO.12111 OF 2016

A.Anthonisamy

...Petitioner

-Vs-

1. The Principal Accountant General
(A & E) Tamil Nadu,
No.361, Anna Salai,
Chennai 600 018.

2. The Block Development Officer (VP),
Nilakottai Panchayat Union,
Dindigul District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to communication of the first respondent herein dated 20.01.2016 bearing PO3/10316292/1/RO316292 and quash the same in so far relates to not counting the service rendered by the petitioner as Nominal Muster Roll, Noon Meal Organiser and Sales Man Service along with regular service for the purpose of pension and direct the respondents to count 50% services rendered in the post of NMR, Noon Meal Organiser and Sales Man from the year 1982 till 31.08.1997 along with regular service for the purpose of granting pension.

For Petitioner : Mr.K.Raja

For R-1 : Mrs.T.S.Selvarani

For R-2 : Mr.R.Naresh Kumar



O R D E R

1. The brief facts of the case are as follows:-

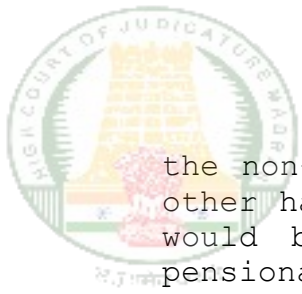
1.1. The petitioner herein had served as a Junior Assistant in Batlagundu Panchayat Union, with effect from 29.01.1998 and thereafter, retired as Deputy Block Development Officer under the second respondent on 31.01.2016. Prior to his service under the second respondent, he had served as an 'N.M.R.' (Nominal Muster Roll) in the same Panchayat Union between 1982-1983, thereafter as a 'Noon Meal Organiser' from 03.02.1983 to 08.06.1986 and in Abirami Dindigul District Consumer Co-operative Wholesale Stores Ltd., from 07.08.1987 to 31.08.1997.

1.2. With regard to his leave period for three months and fifteen days between 09.06.1986 to 09.06.1987, 50% of contingency service while serving as an N.M.R. in the year 1982-83 and 50% contingency service while serving as a Noon Meal Organiser between 03.02.1983 to 08.06.1986 were sanctioned and the first respondent had ordered that his service between 07.08.1987 to 31.08.1997 for a period of ten years and twenty four days, cannot be taken as a qualifying service. The petitioner is aggrieved against the non-sanction of the qualifying service.

2. Rule 11 (2) of the Tamil Nadu Pension Rules 1978, provides that, half of the service rendered by the State Government employee under a non-pensionable establishment shall be allowed to be counted for pensionary benefits along with the regular services under the pensionable establishment subject to certain conditions.

3. It is not in dispute that the petitioner's service under the Abirami Dindigul District Consumer Co-operative Wholesale Stores Ltd., for a period of ten years and twenty four days, is a non-pensionable establishment. The Rule is self-explanatory to the effect that when the Government servant has earlier put in service under a non-pensionable establishment, half of that period of service should be taken into account for the purposes of calculating the pensionary benefits.

4. The first respondent, being the Principal Accountant General, has only raised an objection that since it is for the Government to send proposals for calculation of half of the service in the non-pensionable establishment, they are not in a position to consider the period of service of the petitioner in



the non-pensionable establishment. The second respondent, on the other hand, would concede that under Rule 11 (2), the petitioner would be entitled to have half of his service in the non-pensionable establishment calculated for his pensionary benefits and that they are willing to send the requisite proposals to this effect to the first respondent.

5. In similar circumstances, this Court in the case of M.Palani and others Vs. the Government of Tamil Nadu, represented by the Agricultural Production Commissioner and Principal Secretary to the Government and others passed in W.P.Nos.2623, 3355, and 3356 of 2014 dated 10.11.2017 had passed orders to the effect that a Government employee, who had put in prior service in a non-pensionable establishment, would be entitled to have half of that service counted for his pensionary benefits.

6. In this factual scenario and in consideration of the submissions made by both the counsels appearing for the respondents 1 and 2, this Court is of the view that, out of the service rendered by the petitioner between 07.08.1987 to 31.08.1997, 50% of the total period of ten years and twenty four days, can be taken into account for calculation of pensionary benefits by applying Rule 11(2) of the Tamil Nadu Pension Rules, 1978. As such, the order of the first respondent herein dated 20.01.2016, rejecting the petitioner's service between 07.08.1987 to 31.08.1997 from pensionable service, cannot be sustained.

7. In the light of the above observations, the impugned order dated 20.01.2016 on the file of the first respondent is set aside. Consequently, there shall be a direction to the second respondent herein to forthwith send a proposal to the first respondent for considering half of the petitioner's service rendered from 07.08.1987 to 31.08.1997 with Abirami Dindigul District Consumer Co-operative Wholesale Stores Ltd., for the purpose of calculating his pensionary benefits. The second respondent herein shall endeavour to send such a proposal at least within a period of four(04) weeks from the date of receipt of a copy of this order and on receipt of such proposal, the second respondent herein shall calculate the pensionary benefits and accordingly revise the pension, preferably within a period of four (04) weeks thereafter from the date of receipt of such proposal.



8. This Writ Petition stands Allowed accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

sts/ata

To:

1. The Principal Accountant General
(A & E) Tamil Nadu,
No.361, Anna Salai, Chennai 600 018.
2. The Block Development Officer (VP),
Nilakottai Panchayat Union,
Dindigul District.

+1cc to Mr.K.Raja, Advocate, S.R.No.64930

+1cc to Mr.S.V.Durai Solai Malai, Advocate, S.R.No.65357
(23/02/2022)

W.P.No.13798 of 2016

GSM(CO)
RLP(27/12/2021)