



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD) No.14833 of 2013 and

M.P.(MD) No.1 of 2013

WEB COPY

K.Krishnasamy

... Petitioner

vs.

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

2.The Executive Officer,
Town Panchayat, Andipatti, Theni District. ... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the first respondent in No.AG(A&E)/Legal Cell/Wp(md) 8142/2008/352/32166 dated 01.06.2010 and quash the same and consequently to direct the first respondent to count the service of the petitioner from 01.07.1957 to 30.06.1978 as pensionable service and sanction the retirement benefits and the arrears pursuant to the revision.

For Petitioner: Mr.M.Kannan

For R-1 : Mr.P.Gunasekaran

For R2 : No appearance

O R D E R

This Writ Petition is filed for issuing a Writ of Certiorarified Mandamus to quash the impugned order passed by the first respondent, dated 01.06.2010 and consequently, to direct the first respondent to count the service of the petitioner from 01.07.1957 to 30.06.1978 as pensionable service and sanction retirement benefits and the arrears as per the revision.

2.Heard Mr.M.K.Kannan, learned Counsel for the petitioner and Mr.P.Guansekaran, learned Counsel for the first respondent.

3.It is stated by the petitioner that he joined as full time Clerk in Mallapuram Village Panchayat on 01.07.1957. He continued in the said post till 31.03.1960. After working for two years nine months on time pay scale, there were some shifting and the petitioner was working in other establishment, like, Union office.

4.The issue in this case whether the petitioner's service atleast from the period 01.04.1961 should be counted as pensionable service and the petitioner should be sanctioned retirement benefits, after taking into consideration the entire length of service, is no



more *res integra*, as this Court has repeatedly held that as per Tamil Nadu Pension Rules, 1978, 50% of the service rendered in a job involving full time employment shall be taken into account for the purpose of pension.

5. Since the petitioner wants the period from 01.01.1961 to 30.06.1978 to be counted, the learned Counsel for the first respondent submitted that the petitioner was not entitled to calculate 50% of the service, he rendered prior to 01.01.1961. The learned Counsel for the petitioner, however, submitted that the petitioner was in regular employment for some time till 01.04.1960 and that therefore, the petitioner will lose period only from 01.04.1960 to 01.01.1961. The learned Counsel for the petitioner further submitted that the petitioner is not pressing for the counting of 50% of the period of service from 01.04.1960 to 01.01.1961.

6. Accordingly, this Writ Petition is partly allowed and the impugned order passed by the first respondent, dated 01.06.2010 is quashed. The first respondent is directed to count 50% service of the petitioner from 01.01.1961 to 30.06.1978 as pensionable service and sanction the retirement benefits and arrears as per the revision. The second respondent is directed to submit the proposal in tune with this order within a period of four weeks from the date of receipt of a copy of this order. Upon such proposal being submitted by the second respondent, the first respondent shall consider and pass appropriate orders in accordance with law within a period of six weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Crl)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr

To

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

+1 CC to M/s.K.KANNAN, Advocate (SR-26029[F] dated 12/08/2021)

W.P. (MD) No.14833 of 2013

11.08.2021