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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2021

CORAM:

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM

AND

The Hon'ble Mrs.JUSTICE S.ANANTHI

W.A. (MD).Nos.1039 to 1041 of 2021

C.M.P. (MD).Nos.4649 to 4651 of 2021

1.The State of Tamil Nadu,
Rep.by its Secretary,
Department of Revenue,
St.George Fort,
Chennai.

2.The District Collector,
Tirunelveli District,
Tirunelveli.

3.The Tahsildar,
Kadayanallur Taluk Office,
Tirunelveli District. ...Appellants in W.A(MD).No.1039 of 2021

1. The State of Tamilnadu, Rep. by its Secretary, Department of Revenue, St.George Fort, Chennai.

2. The District Collector, Tirunelveli Distict.

3. The Tahsildar, Alangulam Taluk Office, Alangulam, Tirunelveli District.

... Appellants in in WA(MD). 1040 and 1041 2021

Vs.

1.A.Vellasamy ...R1 in W.A(MD).No.1039 of 2021

2.A.Subramanian ...R1 in W.A(MD).No.1040 of 2021

3.A.Irulappan ...R1 in W.A(MD).No.1041 of 2021

4.The Principal Accountant General (A&E) Pension,
No.391, Anna Salai,
Chennai. ...R2 in all Writ Appeals

COMMON PRAYER: Writ Appeals filed under Clause 15 of Letters Patent to set aside the order dated 10.02.2020 made in W.P.(MD).Nos.25190 of 2018, 2321 and 2322 of 2019 on the file of this Court.

Prayer in WP(MD). 25190/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To Writ of Mandamus directing the respondents 2 to 4 to sent revised Pension Proposal to

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



the 1st respondent calculating half of the services put in by the petitioner as Village Assistant from 18.03.1983 to 01.06.1995.

Prayer in WP(MD). 2321/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents 2 to 4 to sent revised Pension proposal to the 1st respondent calculating half of the services put in by the petitioner as village Thalaiyari from 30.10.1985 to 01.06.1995 within a specified time frame that may fixed by the Honble High Court

Prayer in WP(MD). 2322/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents 2 to 4 to sent revised Pension proposal to the 1st respondent calculating half of the services put in by the petitioner as village Thalaiyari from 06.04.1977 to 01.06.1995 within a specified time frame that may fixed by the Honble High Court

In all appeals

For Appellants : Mr.A.K.Manickam,
Government Counsel

For R1 : Mr.T.S.Mohammed Mohideen

C O M M O N J U D G M E N T

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.A.K.Manickam, learned Government counsel appearing for the appellants and Mr.T.S.Mohammed Mohideen, learned counsel appearing for the first respondent.

2. In the light of the orders we propose to pass in this writ petition, notice to the second respondent is dispensed with.

3. With the consent on either side, these writ appeals are taken up for disposal at the admission stage itself.

4. The first respondent in these appeals filed writ petitions praying for a direction upon the appellants to revise Pension Proposal of the 1st respondent herein by calculating half of the services put in by them as Village Assistant from different dates.

5. The learned Single Judge has issued a positive direction to consider the representation and take into consideration 50% of the service. Identical orders were tested for its correctness in the appeal filed by the Government in W.A.(MD).Nos.830 to 832 of 2021. The matters were heard by us and by common judgment dated 16.04.2021, the appeals were partly allowed and the directions issued were modified. The operative portion of the judgment reads as



follows:

5.Learned Counsel for the respondents / writ petitioners submitted that the writ petitioners had come before this Court earlier in a batch of cases in W.P. (MD)No.23208 of 2018 etc., batch, which was disposed of by a common order dated 31.01.2019, directing the matter to be placed before the Hon'ble Chief Justice, to be placed before the larger Bench on the ground that there were conflicting views by the learned Single Bench. Against the said judgment, W.A.(MD)No.370 of 2019, was filed and a judgment was passed on 22.10.2019, wherein directions were given to pass orders counting the 50% of the services rendered by the respective appellants as Thalaiyari, for the relevant period, for the purpose of calculating pension. Therefore, the learned Single Bench in the impugned order directed the appellants to consider the representations on those lines. However, there is an impediment as of now for the Government to take a decision in the matter on account of another judgment of the Hon'ble Division Bench, to which one of us was a party [S.ANANTHI, J.] in W.A.(MD)No.1629 of 2018 etc., batch dated 26.02.2021.

6. It is the submission of the learned Special Government Pleader for the appellants that the arguments now placed by Mr.T.S.Mohammed Mohideen, learned Counsel for the respondents / writ petitioners was also taken note of by the recent Division Bench judgment in the case of the State of Tamil Nadu Vs. E.Balachandran, in W.A.(MD)No.1629 of 2018 etc., batch, and the appeals filed by the Government has been allowed. As against the judgment dated 26.02.2021, in the case of E.Balachandran [referred supra], as on date, it appears that no appeal has been filed before the Hon'ble Supreme Court of India.

7.In the light of the above, we modify the direction issued by the learned Single Bench by directing the appellants to take a decision in accordance with law, taking note of the legal position pointed out.

8.Accordingly, these Writ Appeals are partly allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

6. Thus, following the above decision, the Writ Appeals are partly allowed and the positive direction issued by the learned



Single Bench is set aside. The appellants are directed to take a decision on the first respondent in these writ appeals/writ petitioners' representation in accordance with law, by taking note of the earlier judgment. No costs. Consequently, connected miscellaneous petitions are also closed.

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ssb/tta

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
The Principal Accountant General (A&E) Pension,
No.391, Anna Salai,
Chennai.

+3 CC to M/s.T.S.MOHAMED MOHIDEEN, Advocate (SR-19201[F],
19202,19203 dated 11/06/2021)

+1 CC to M/s.SPLGP (SR-19283[F] dated 14/06/2021)

W.A. (MD) .Nos.1039 to 1041 of 2021

10.06.2021

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