



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.[MD]No.6752 of 2021

N.Nagarajan Nair

... Petitioner

Vs.

- 1.The Additional Chief Secretary,
Revenue and Disaster Management Department,
Government of Tamil Nadu,
St. George Fort, Secretariat, Chennai -0 600 009.
 - 2.The Secretary,
Personnel and Administrative Reforms (S) Department,
Government of Tamil Nadu,
St. George Fort, Secretariat, Chennai - 600 009.
 - 3.The Commissioner of Revenue Administration,
Commissionerate of Revenue Administration,
Ezhilagam, Chepauk, Chennai - 600 005.
 - 4.The Accountant General,
Office of the Accountant General,
(Accounts & Entitlements), Tamil Nadu,
361, Anna Salai, Teynampet, Chennai - 600 018.
 - 5.The Senior Accounts Officer (Pen. 30),
Office of the Principal Accountant General (A&E), Tamil Nadu,
361, Anna Salai, Teynampet, Chennai - 600 018.
 - 6.The District Collector,
District Collectorate,
Nagercoil, Kanyakumari - 629 001.
- ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to re-calculate the years of service from the date of joining on 01.08.1986 to 31.05.1995 to the Gross years of qualifying service and to issue me a corrected pension payment order with the enhanced pension and gratuity and to pay me the arrears thereon, in accordance with law within the time stipulated by this Court.

For Petitioner : Mrs.D.Geetha

For Respondents 1to3 & 6 : Mr.P.Kannithevan,
Additional Government Pleader

For Respondents 4 & 5 : Mr.P.Gunasekaran



O R D E R

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. The case of the petitioner is that the petitioner joined as Village Assistant on temporary basis in the year 1986. Then, he was made permanent by the Tahsildar, Kalkulam in the year 1987. The petitioner further served as Village Assistant Full Time upon the salary paid by the Government of Tamil Nadu. Further, the petitioner was promoted as Village Administrative Officer, in the year 2016 vide G.O.Ms.No.570 Revenue [Service-8(1)] Department dated 26.12.2014. Thereafter, the petitioner retired from service in the year 2019. After retirement, the petitioner has now filed the present writ petition to re-calculate his years of service and to issue corrected Pension Payment Order. In this regard, the petitioner has submitted a representation dated 22.02.2021, which is still pending.

3. The learned Counsel for the petitioner submits that this Court may issue a direction to the respondents to consider the representation of the petitioner dated 22.02.2021.

4. Learned Counsel for the respondents submits that the issue arising in this writ petition is no longer res integra, since the persons appointed prior to the year 1995, are not eligible for the relief sought for. In this regard, reliance was placed on the judgment of the Division Bench of this Court in **State of T.N. & Ors. - Vs. E.Balachandran (W.A.[MD]No.1629 of 2018 dated 26.02.2021)** and, accordingly, prays for dismissal of the petition.

5. This Court paid its undivided attention to the submissions advanced by the learned counsel on either side and also perused the materials available on record as also the decision of the Division Bench in *Balachandran's case (supra)*.

6. In *Balachandran's case (supra)* the issue that fell for consideration before the Division Bench related to the entitlement of 50% of the service rendered prior to the change of status as Full Time Government Servants, in the post of Village Headman and Karnam (Village Officers) and the Division Bench of this Court held as under :-

"25. Insofar as the Village Officers (Karnams) are concerned, the Act itself clearly specifies that they were part-time Village Officers and therefore, they were abolished. That is the reason why a challenge was made before the Courts. Thus, there is no ambiguity with respect to their own status.



Secondly, re-employment has been made in favour of few eligible persons after due scrutiny by the Committee. A learned Single Judge (The Hon'ble Mr. Justice V.Ramasubramanian), as he then was, by order dated 09.01.2009, made in **W.P.Nos.276 to 280 of 2009 and W.P.Nos.287 to 293 of 2009**, in the matter of **M.Annai Muthu v. State of Tamil Nadu and others**, has clearly captured the history, background and their entitlement. Even for them, a separate Government Order has been passed in G.O.Ms.No.121, Revenue Department, dated 13.03.2001, giving certain pensionary benefits. In this connection, we would appropriately quote the following paragraphs:-

"17. However, by an order in G.O.Ms.No.121, Revenue,

dated 13.3.2001, the Ex. Village Officers who lost their jobs on 14.11.1980 and who got appointed temporarily after 1988 by acquiring the minimum general educational qualification subsequent to the date of abolition, but who retired without completing the qualifying service of 10 years, were granted the benefit of special pension originally ordered to the Ex-Officers who lost their jobs and who never got re-employment. Paragraphs-7 and 8 of the said order read as follows:-

"7. The Government have after careful consideration of the request of the Retired Village Administrative Officers and the recommendation of the Principal Commissioner and Commissioner of Revenue Administration, direct that the pensionary benefits ordered in G.O.(Ms) No.828, Revenue, dated 23.8.1996 and enhanced in G.O.(Ms) No.629, Revenue, dated 22.7.1998 be extended to the Ex-Village Officers who lost their jobs on 14.11.1980 and who did not possess minimum general educational qualification at the time of abolition of the posts of Village Officers (i.e.) 14.11.1980, but obtained the educational qualification, subsequent to 20.2.1982 and appointed as Village Administrative Officers under Rule 10(a)(i) basis with reference to G.O.(Ms) No.1287, Revenue, dated 6.7.1988 and retired without completing 10 years of qualifying service.

8. The Government also direct that the said category of Ex-Village Officers are eligible for pension sanctioned in paragraph-3 above, with effect from 5.12.1986, excluding for the period



they worked as Village Administrative Officers."

18. To summarise, the vexed question of grant of pension for the services rendered by the erstwhile Village Officers has undergone a metamorphosis over the past three decades and step by step the Government have yielded to the demand, categorywise as follows:-

(a) FOR THOSE WHO NEVER GOT REEMPLOYED:-

A special pension of Rs.175/- per month later enhanced

to Rs.250/- per month with attendant benefits to all those living Ex-Village Officers, who lost their jobs on 14.11.1980 but who never got re-employed was first sanctioned with effect from 5.12.1986. For the families of those who were dead, a special family pension of Rs.100/- per month later enhanced to Rs.150/- per month, was similarly sanctioned.

(b) FOR THOSE WHO GOT RE-EMPLOYED IN 1982:-

For persons who lost their jobs on 14.11.1980 and who were appointed as Village Administrative Officers in the year 1982, by virtue of possessing minimum general educational qualification, but who retired without completing 10 years of service in the new category, their services were directed to be counted not from the date of their appointment in 1982 but directed to be counted with effect from 14.11.1980, so that they get 10 years of qualifying service in the new category to get at least minimum pension. If these persons did not get 10 years of service, even after counting the service from 14.11.1980, then they were directed to be granted the special pension as per G.O.Ms.No.828, Revenue, dated 23.8.1996, with effect from 5.12.1986, but excluding the period of their non-employment.

(c) FOR THOSE WHO GOT RE-EMPLOYED AFTER 1988:-

Persons who lost their jobs on 14.11.1980 and who got appointed temporarily under Rule 10(a) (i) after 1988, by virtue of acquiring minimum general educational qualifications after the date of abolition, the special pension granted to those who were never re-employed, was granted with effect from 5.12.1986, excluding the period of their re-employment on temporary basis."

In our considered view, the learned Single Judge, as he then was, has correctly applied the law by taking note of the fact even for the recruitment of



part-time re-employment. Therefore, in the process, there were separate sets of Rules dealing with pensionary benefits. Now, there is no separate sets of Rules. They can recourse to the regular course of Rule applicable to Government servants under the Tamil Nadu Pension Rules, 1978. Incidentally, this being a reemployment, even otherwise Rule 11(3) would act as an embargo.

26. Having considered the entire issues involved, we also find that there is no application of Article 14 of the Constitution of India by comparing the respondents with those who got the relief albeit without taking note of the relevant provisions of law. Granting the relief would amount to setting aside two pension Rules without even a challenge especially when the respondents got the benefit of regular employment and permanent posts under the subsequent orders passed, on their request.

27. In the result, the appeals filed by the Government of Tamil Nadu stand allowed by setting aside the orders passed by the learned Single Judge and consequently, the appeal filed by the Writ Petitioner in W.A.(MD) No.831 of 2020 stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed."

7. The issue raised in the present petition is squarely covered by the decision rendered by the Division Bench in Balachandran's case (supra) and following the ratio laid down above, this Court is of the considered opinion that the relief sought for by the petitioner cannot be acceded to.

8. Accordingly, this writ petition fails and the same is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR



To

1.The Additional Chief Secretary,
Revenue and Disaster Management Department,
Government of Tamil Nadu,
St. George Fort, Secretariat, Chennai -0 600 009.

2.The Secretary,
Personnel and Administrative Reforms (S) Department,
Government of Tamil Nadu,
St. George Fort, Secretariat, Chennai - 600 009.

3.The Commissioner of Revenue Administration,
Commissionerate of Revenue Administration,
Ezhilagam, Chepauk, Chennai - 600 005.

4.The Accountant General,
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(Accounts & Entitlements), Tamil Nadu,
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Nagercoil, Kanyakumari - 629 001.

... Respondents

+1 CC to M/s.P.BALASUBRAMANIAN, Advocate (SR-14056[F] dated 29/03/2021)

+1 CC to M/s.SPL GP (SR-14106[F] dated 29/03/2021)

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