



WEB COPY

3BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A.[MD]Nos.830 to 832 of 2021

and

C.M.P.[MD]Nos.3697, 3700 & 3702 of 2021

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

2.The District Collector,
Virudhunagar District,
Virudhunagar.

3.The Tahsildar,
Rajapalayam Taluk Office,
Virudhunagar District.

: Appellants in all Writ Appeals/
2nd to 4th Respondents

Vs.

1.A.Krishnan : 1st respondent/Writ Petitioner
in W.A.[MD]No.830/21

1.V.Kurtalam : 1st respondent in W.A.[MD]No.831/21

1.S.Kadarkarai : 1st respondent in W.A.[MD]No.832/21

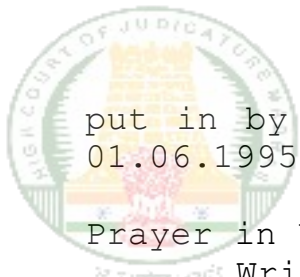
2.The Principal Accountant General (A&E) Pension,
391, Anna Salai,
Chennai.

: 2nd respondent/1st Respondent
in all Writ Appeals

COMMON PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent, to call for the records and set aside the common order dated 10.02.2020, in W.P.[MD]No.22381, 22383 & 22384 of 2018 and allow the writ appeals.

Prayer in WP(MD). 22381 of 2018 :

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 Assistant from 27.02.1990 to 01.06.1995.

Prayer in WP(MD). 22383 of 2018 :

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 Assistant from 04.08.1981 to 01.06.1995.

Prayer in WP(MD). 22384 of 2018 :

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 Assistant from 20.01.1986 to 01.06.1995.

For Appellants	: Mr.K.P.Krishnadass Special Government Pleader
For Respondents	: Mr.T.S.Mohammed Mohideen [In all Writ Appeals]

COMMON JUDGMENT

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

With the consent on either side, these Writ Appeals are taken up for final disposal itself.

2.Heard Mr.K.P.Krishnadass, learned Special Government Pleader appearing for the appellants and Mr.T.S.Mohammed Mohideen, learned Counsel appearing for the respondent / writ petitioners.

3.These appeals have been filed by the Government against the common order dated 10.02.2020, in W.P.[MD]No.22381, 22383 & 22384 of 2018. The said Writ Petitions were filed for a direction upon the appellants to send revised pension proposal to the first appellant by calculating half of the services rendered by the respective writ petitioners as Village Assistants from various dates, within a stipulated time frame.

4.The respondents / writ petitioners places reliance on the judgment of the Division Bench in W.A.[MD]No.370 of 2019 dated 22.10.2019. Though, a positive direction was sought for in the writ petition, the learned Writ Court did not grant such a positive direction but only directed the appellants to consider the representations.



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.

Sd/-

Assistant Registrar(AE)

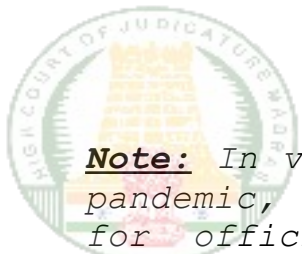
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/ /2021

Sub Assistant Registrar(CS)

MR

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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

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

2.The District Collector,
Virudhunagar District,
Virudhunagar.

3.The Tahsildar,
Rajapalayam Taluk Office,
Virudhunagar District.

4.The Principal Accountant General (A&E) Pension,
391, Anna Salai,
Chennai.

+3 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-16229[F] dated 17/04/2021)

+1 CC to M/s.SPL GP (SR-16286[F] dated 17/04/2021)

COMMON JUDGMENT MADE IN
W.A. [MD]Nos.830 to 832 of 2021
16.04.2021

ES(CO)
TR(17.05.2021) 4P 9C