



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.09.2021

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P(MD)No.19925 of 2020

Ramalakshmi

... Petitioner

Vs.

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

2.The District Collector,
Tenkasi District,
Tenkasi.

3.The Tahsildar,
Thiruvenkadam Taluk,
Tenkasi District.

4.The Tahsildar,
Sankarankovil Taluk,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the first respondent to sanction the pensionary benefits of the petitioner's husband namely P.Veeraputhiran to the petitioner from his retirement by calculating the petitioner's husband's service from his original date of appointment on 01.09.1974 with arrears in the light of judgment of this Court in the case of (A.P.Srivastava Vs Union of India and others) reported in **1996 (1) LLJ 241** and on the basis of the petitioner's representation dated 03.11.2020.

For Petitioner : Mr.K.K.Kannan
For Respondents : Ms.S.Mahalakshmi,
Standing Counsel for R1
Mr.A.K.Manickam,
learned counsel for R2 to R4

ORDER

This Writ Petition has been filed, seeking for issuance of a Writ of Mandamus, to direct the first respondent to sanction the pensionary benefits of the petitioner's husband namely P.Veeraputhiran to the petitioner from the date of his retirement by calculating the petitioner's husband's services from his original date of appointment on 01.09.1974 with arrears, in the light of judgment of this Court in the case of "**A.P.Srivastava Vs Union of**



India and others" reported in **1996 (1) LLJ 241** and on the basis of the petitioner's representation dated 03.11.2020.

2. Heard the learned counsel appearing for the petitioner and the learned Counsel appearing for the respondents.

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

4. According to the petitioner, her husband Late Veeraputhiran was appointed as Village Assistant on 01.09.1974 and later on 01.06.1995, his service was regularized and after his retirement, he was receiving pension at Rs.150/- per month. Later, he died on 07.01.2020. The petitioner made representation dated 03.11.2020 to the respondents, seeking to grant pension by taking into consideration the services rendered by her husband from the date of his original appointment, i.e., 01.09.1974. The petitioner relied upon a decision reported in "A.P.Srivastha versus Union of India and others" reported in **1996(1) LLJ 241**. Since no action is forthcoming despite her representation, the petitioner has come forward with the present Writ Petition.

5. The learned counsel appearing for the petitioner would make submission that, admittedly, the petitioner's husband was appointed as Village Assistant long years back and after having rendered several years of service, his service was regularized from 01.06.1995, by bringing him under time scale of pay. He submitted that though the service of the petitioner was regularized with effect from 01.06.1995, considering the nature of the job of the Village Assistant which is full time, at least for the pensionary benefits, his past services shall be taken into account.

6.A counter affidavit has been filed by the first respondent. Paragraph no.4 of the said counter affidavit is extracted hereunder:

''4.It is submitted at the outset that the services rendered by Sri Veeraputhiran if any, for the period from 01.09.1974 to 31.05.1995 would have to be treated as part-time service which cannot be taken into account as qualifying service as has been held by the detailed order dated 26.02.2021 of the Division Bench of the Madurai Bench of the Madras High Court in the case of W.A.(MD) No.1629 of 2018 and batch. Deliberating elaborately on the provisions of the Tamil Nadu Pension Rules and G.O.No.9 dated 28.02.2006(Tamilnadu Village Assistant Pension Rules) as also the various judgments in similar cases of the past, the High Court has decisively concluded that service rendered by Village Assistants prior to 01.06.1995 have to be treated as part-time service and 50% of



the same cannot be counted as qualifying service for the purpose of pensionary benefits. Thus, the matter has been settled at rest by the Division Bench's recent order dated 26.02.2021''.

7. Therefore, the learned counsel appearing for the respondents, would submit that the issue involved in the present Writ Petition is no longer *res integra* since it has been settled by a recent judgment of Division Bench of this Court reported in **(2021) 3 MLJ page 92 (State of Tamilnadu, rep. by its Principal Secretary, Revenue Department, Secretariat, Chennai and Others Vs. E.Balachandran)** in WA.(MD) No.1629 of 2018, wherein, on consideration the relevant Rules as well as the decisions of the Apex Court, and relying upon the relevant provisions under Rule 11 (4) of Tamil Nadu Pension Rules 1978, the Division Bench of this Court has allowed the Appeals preferred by the Government setting aside the order passed by the learned Single Judge. Relevant paragraph nos.26 and 27 are extracted as under:

"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."

8. In the light of the aforesaid decision cited supra, there is no merits in the writ petition. Accordingly, the writ petition is dismissed. No costs.

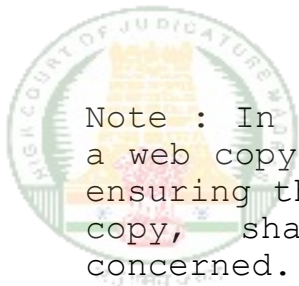
Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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To

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4.The Thasildar,
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Tirunelveli District.

+1 CC to M/s.K.K.KANNAN, Advocate (SR-28552[F] dated 08/09/2021)

+1 CC to M/s.GP (SR-28686[F] dated 09/09/2021)

W.P (MD) No.19925 of 2020
08.09.2021

RD(27.09.2021) 4P 7C