



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2021

CORAM

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

W.P.(MD)No.15710 of 2016

R.K.Venkatraman

... Petitioner

vs.

1.The Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Rural Development,
Panchayat Raj Department,
Saidapet, Chennai-600 015.

3.The District Collector,
Sivagangai District, Sivagangai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pursuant to the letter No. Na.Ka.B5/5794/2015, dated 11.07.2016, and to quash the same and consequently to direct the 1st respondent to pass appropriate orders to the 3rd respondent to sanction the petitioners eligible pension and other benefits within the time prescribed by this Court.

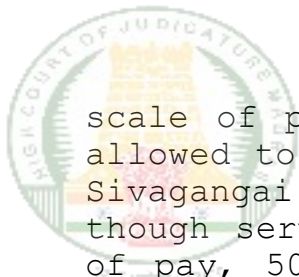
For Petitioner : Mr.R.Senthil Kumar
For Respondents : Mr.M.Linga Durai
Government Advocate

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by third respondent, dated 11.07.2016, and to direct the first respondent to pass appropriate orders to the third respondent to sanction the petitioner's eligible pension and other pension benefits within the time stipulated by this Court.

2.Heard Mr.R.Senthil Kumar, learned Counsel for the petitioner and Mr.M.Linga Durai, learned Government Advocate appearing for the respondents.

3.The petitioner was appointed as a Driver as per the proceedings, dated 05.06.1996, of the Project Director of the Rural Director, Sivagangai District. The petitioner was continuously serving as Driver in the Rural Development Department without any break till 31.05.2013. The petitioner was absorbed in regular time



scale of pay by a order dated 27.01.2010. The petitioner also was allowed to retire on 31.05.2013 as Personal Assistant to Collector, Sivagangai. It is the case of the petitioner that the petitioner though served only for about seven years in the regular time scale of pay, 50% his service for a period of ten years shall be taken into consideration as per Rules 11(2) and 11(4) of Tamil Nadu Pension Rules, for the purpose of pension.

4.As per Rule 11(2) and 11(4) of Tamil Nadu Pension Rules, half of the service put in by the petitioner in the daily wage shall be taken into consideration for the purpose of calculation of pension. Since, the petitioner was appointed as Jeep Driver in 1996, which was on daily wage basis, it is contended by the petitioner that though he was absorbed in the regular time scale of pay by a proceedings, dated 27.01.2010, the period during which the petitioner was engaged as a Driver on daily wage basis should be considered by taking into account 50% of the service on daily wage.

5.Earlier, the petitioner made a representation on 06.06.2015 to the Government through appropriate channel to consider his case for eligibility of pension in terms of Rule 11(4) of Tamil Nadu Pension Rules. A subsequent representation was also submitted by the petitioner on 10.06.2015. The petitioner filed a Writ Petition earlier in W.P.(MD)No.12516 of 2015 for issuance of a Writ of Mandamus to direct the first respondent, namely, the State Government, Rural Department and Panchayat Raj Department, to pass appropriate orders on the representation of the petitioner dated 06.06.2015 within the time that may be stipulated by this Court. This Court disposed of the said Writ Petition with the direction that the petitioner's representation should be considered and disposed of within a period of three months from the date of the order. The Writ Petition was disposed of on 22.07.2015.

6.Though the learned Counsel appearing for the petitioner relied upon a few judgments of this Court, it is now admitted before this Court that a Honourable Full Bench of this Court, by judgment, dated 29.08.2018 has considered the issue elaborately in a batch of Writ Appeals in W.A.No.158 of 2016 and batch and held as follows:

"46.In the light of the above, we answer the reference as follows:

i)Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003.

ii)Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10(a)(i) of Tamil Nadu State and Subordinate



Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules. 1978.

iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honararium or daily wage basis and if such services were regularised before 01.04.2003, half of service rendered shall be counted for the purpose of conferment of pensionary benefits.

iv) Those government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10(a)(1) of Tamil Nadu State and Subordinate Service Rules and absorbed into regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.

v) Those government servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension."

7. In view of the judgment of the Honourable Full Bench of this Court above referred to, the petitioner is not entitled to any relief and hence, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1. The Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai - 600 009.

2. The Commissioner of Rural Development,
Panchayat Raj Department,
Saidapet,
Chennai-600 015.



3.The District Collector,
Sivagangai District,
Sivagangai.

+1 CC to M/s.SPL. GP (SR-29775[F] dated 21/09/2021)

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Order made in
W.P. (MD) No.15710 of 2016
20.09.2021

RS (28.09.2021) 4P 5C