



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:10.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.1266 of 2017

Pandi

... Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Assistant Director of Panchayat,
Sivagangai District,
Sivagangai.

3.The Block Development Officer,
(Village Panchayat), Thiruppuvanam,
Sivagangai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd respondents to count 50% of the service rendered by the petitioner before the date of regularization of the petitioner on 05.09.2005, for the purpose of pension and other terminal benefits in the light of Rule 11(2) of the Tamil Nadu Pension Rules and consequently, direct the respondents 1 and 2 to disburse the pension and terminal benefits to the petitioner as per the old pension scheme within a time frame that may be stipulated by this Court.

For Petitioner : Mr.P.T.Ramesh Raja
For R1 & R2 : Mr.M.Muthugeethayan
Special Government Pleader
For R3 : Mr.J.Gunaseelanmuthiah
Additional Government Pleader

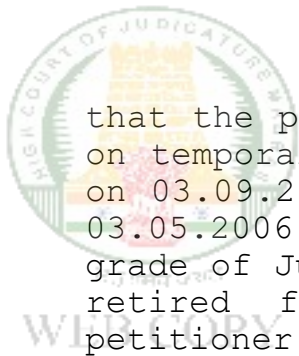
O R D E R

This Writ Petition is filed for direction to the first and the second respondents to count 50% of the service rendered by the petitioner before the date of regularization of the petitioner, on 05.09.2005, for the purpose of pension and other terminal benefits, in the light of Rule 11(2) of the Tamil Nadu Pension Rules and consequently, direct the first and the second respondents to disburse the pension and terminal benefits to the petitioner as per the old pension scheme.

2.Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent.

3.The learned counsel appearing for the petitioner submitted

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that the petitioner was appointed as Panchayat Clerk on 10.10.1984, on temporary basis. Thereafter, he was promoted as Junior Assistant on 03.09.2005 and his service was regularized by proceedings, dated 03.05.2006 and he was brought under regular time scale of pay in the grade of Junior Assistant. In such circumstances, the petitioner was retired from service on 30.09.2015. After retirement, the petitioner was not given any retirement benefits. Further, the learned counsel submitted that for availing pension benefits, 50% of service rendered by the petitioner prior to his regularization has to be counted. Therefore, the petitioner has made a representation on 05.09.2005 to the respondents. So far no order has been passed. Hence, the present writ petition is filed.

4.The learned Special Government Pleader appearing for the respondents 1 and 2 submitted that the issue arises in this Writ Petition was already settled by the Hon'ble Full Bench of this Court in W.A.No.158 of 2016 etc., batch, dated 03.12.2019, wherein in paragraph No.45 of the said order reads as follows:

"45. 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 W.A.No.158 of 2016 etc., batch 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 honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such 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) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 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."

5. Admittedly, the case of the petitioner is that he was appointed as Panchayat Clerk on 10.10.1984 on temporary basis and his services were regularized only on 03.05.2006. On a perusal of the above said decision made in W.A.No.158 of 2016 etc., batch, dated 03.12.2019, particularly, sub para (iv) of paragraph 45 makes it clear that the Government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 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.

6. In view of the above said decision, the claim made by the writ petitioner in this Writ Petition cannot be considered. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 District Collector,
Sivagangai District,
Sivagangai.

2. The Assistant Director of Panchayat,
Sivagangai District,
Sivagangai.

3. The Block Development Officer,
Village Panchayat,
Thirupuvanam,
Sivagangai District

+1 CC to M/s.SPL GP (SR-10532[F] dated 11/03/2021)

W.P. (MD)No.1266 of 2017

10.03.2021

nsm(CO)

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