IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.11.2022

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. No.37535 of 2015
and M.P.Nos.1 & 2 of 2015

1.K.Sundaram
S/o K.Krishnasamy

2.C.Shanmugasundaram
S/o A.Chinnadurai Padayatchi

3.S.Selvarajan
S/o S.P.Subramaniam

4.V.Subbarao
S/o N.Venkatarao ... Petitioners

Vs.

1.The Secretary to Government
Revenue (Service – 8(2)) Department
Fort St.George, Chennai – 600 009.

2.The Special Commissioner
Revenue Administration, Chepauk
Chennai – 600 005.

3.The District Collector
Salem District, Salem.

4.The Revenue Divisional Officer
Salem, Salem District. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned G.O., issued by the 1st respondent in G.O.Ms.No.158, Revenue (Service – 8(2)) Department, dated 08.04.2015 in so far relates to sanction the minimum pension from the date of G.O., and quash the same and consequently direct the respondents to disburse the arrears of minimum pension, by calculating the minimum pension, by taking note from the date of the petitioners retirement till 08.04.2015.

For Petitioners	:	Mr.C.Prakasam
For Respondents	:	Mr.A.M.Ayyadurai Government Advocate

ORDER

This writ petition has been filed, for issuance of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent, passed in G.O.Ms.No.158, Revenue (Service –8(2)) Department, dated 08.04.2015 in so far as relates to sanction of minimum pension from the date of G.O., and quash the same and consequently direct the respondents to disburse the arrears of minimum pension by calculating the minimum pension, by taking note from the date of petitioners retirement, till 08.04.2015.

2.The petitioners herein worked as Village Munsif and Karnam on temporary basis and they lost their job, by virtue of the abolition of the post of Village Officer, with effect from 14.11.1980 by the Tamil Nadu Village Ordinance 10 of 1980. Subsequently, affected persons along with the petitioners herein approached the Tamil Nadu Administrative Tribunal and the said Tribunal vide its order, directed the respondents to appoint the petitioners herein as Village Administrative Officer with effect from 25.10.2000, 31.10.2000, 21.11.2001 and 20.12.2000 respectively. Thereafter, they were allowed to retire from service, on attaining the age of superannuation.

3.In the meantime, G.O.Ms.No.756 Revenue Department dated 17.08.1993 was issued by the Government of Tamil Nadu, under which those who lost the job on 14.11.1980, because of Ordinance was subsequently re-appointed as VAO and retired from service on superannuation, but not having the minimum qualifying service of 10 years, their service instead of being calculated from the date of re-appointment can be calculated from 14.11.1980 and accordingly their minimum qualifying service can be taken into account for the purpose of sanctioning the minimum pension.

4.Persons, who were not benefited with the above G.O., approached this Court and obtained favourable orders, for sanctioning minimum pension. Accordingly, the Government has issued G.O.Ms.No.148, Revenue Department dated 20.04.2011, whereby minimum pension was sanctioned, for the persons who are not completed 10 years of service.

5.Following these two Government Orders, still some more people who lost the job on 14.11.1980 and got re-appointed some time in 2000 or thereafter and who also since did not have the minimum qualifying service of 10 years, the benefit as has been already given under G.O.Ms.No.756 dated 17.08.1993 and G.O.Ms.No.148 dated 20.04.2011 was to be extended to these people also, accordingly the Government has come forward to issue

G.O.Ms.No.158 Revenue Department dated 08.04.2015, under which 184 such people have been benefited in favour whom Rule 43 of the Tamil Nadu Pension Rules 1978 was relaxed to get minimum pension by taking into account of their service rendered in the re-appointed post of VAO as well as the period from 14.11.1980 put together.

6.Relying upon the aforestated Government Orders, the learned counsel appearing for the petitioners would canvass the point that the petitioners are also similarly placed like several other person among 184, who are the beneficiaries now under G.O.Ms.No.158 dated 08.04.2015, therefore such a benefit can very well be extended to the petitioners by taking the combined services in the re-appointed post of VAO as well as the period from 14.11.1980 to the petitioners also, for calculating the minimum pensionable service for the purpose of sanctioning the minimum pension. Further, the learned counsel appearing for the petitioners relied upon the judgment of the Division Bench of this Court in a batch of writ appeals in W.A.(MD)No.1629 of 2018 dated 26.02.2021 in the matter of ***State of Tamil Nadu Rep. by its Principal Secretary to Government, Revenue***

Department and others vs. E.Balachandran., wherein it has been held that 50% of service rendered as part time employees without a cadre post can still be counted in accordance with the rules.

7.However, the learned Government Advocate appearing for the respondents would submit that in all the Government Orders referred above, one point that was made clear by the Government, that those who lost the job on 14.11.1980 and subsequently got re-appointed as VAO and in that capacity they retired on superannuation without earning the minimum qualifying service of 10 years, only for those persons in order to get the benefit of minimum pension, the period from 14.11.1980 was directed to be calculated along with the services rendered by them in the re-appointed post of VAO and accordingly the minimum pension can be sanctioned to them. Accordingly, minimum pension was sanctioned to several people covered under the said Government Orders.

8.Heard the learned counsel for the petitioners and the learned Government Advocate appearing for the respondents.

9.All the Government Orders, i.e. G.O.Ms.No.756 dated 17.08.1993, G.O.Ms.148 dated 20.04.2011 and G.O.Ms.No.158 dated 08.04.2015 has made one point clear that those who lost the job on 14.11.1980 alone were considered for such a benefit of calculating their service from 14.11.1980 for the purpose of calculating the minimum pension. Nevertheless, who all are the beneficiaries under these Government Orders are to be looked into.

10.In this context, if not under other Government Orders, i.e. G.O.Ms.No.756 dated 17.08.1993 and G.O.Ms.No.148 dated 20.04.2011, insofar as the latest G.O.Ms.No.158 dated 08.04.2015 which was the last or latest G.O. in that line where 184 beneficiaries names have been included in the list as annexure to G.O.Ms.No.158.

11.It is the strong case on the part of the petitioners that majority of those beneficiaries though worked as Village Munsif or Karnam prior to 14.11.1980 but not as on 14.11.1980 have been considered by construing the cut-off date 14.11.1980 as if that those also who lost the job as on 14.11.1980 and accordingly the benefits have been extended to them under G.O.Ms.No.158 dated 08.04.2015.

12.In an identical matters, this Court by its orders dated 09.04.2009 in W.P. No.6038 of 2009 and by order dated 10.09.2009 in W.P. No.31844 of 2007 had directed the respondents, to consider the case of similarly placed persons, for minimum pension in the light of G.O. Ms. No.756, Revenue Department, dated 17.08.1993 and the decision of the Division Bench of this Court in W.P. No.2648 of 2007, dated 20.02.2007 and pass orders on merits and in accordance with law.

13.It is the case of the petitioners that they also lost the job by 14.11.1980 Ordinance and subsequently was re- appointed on 25.10.2000, 31.10.2000, 21.11.2001 and 20.12.2000 respectively and because of superannuation retired from service on 30.06.2010, 31.05.2010, 30.06.2010 and 31.05.2007, therefore they did not have the 10 years minimum qualifying service in the re-appointed post. Therefore, qualifying the service with effect from 14.11.1980, the petitioners shall also be treated as one among the beneficiaries to be extended the benefit of minimum qualifying pension as has been provided to several people covered under G.O.Ms.No.756 dated 17.08.1993, G.O.Ms.No.148 dated 20.04.2011 and G.O.Ms.No.158 dated 08.04.2015.

14.As a sequel, there shall be a direction to the respondents to consider the request of the petitioners and treat them as a person who lost the job as on 14.11.1980 and accordingly by taking into account their service with effect from 25.10.2000, 31.10.2000, 21.11.2001 and 20.12.2000 as Village Administrative Officer and till their respective date of superannuation, along with the services which notionally be treated from 14.11.1980 for the purpose of calculating the minimum pensionable service of 10 years by extending the benefit under G.O.Ms.No.158 Revenue Department dated 08.04.2015 and calculate the minimum pension payable to the petitioners from the respective date of their superannuation, till 08.04.2015 and pay the same with arrears to them. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

15.With the above direction, this Writ Petition stands allowed. No costs. Consequently connected miscellaneous petitions are closed.

22.11.2022

Index:Yes/No
Internet:Yes/No
Neutral citation:Yes/No
Speaking Order: Yes/No
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J.NISHA BANU, J.,

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