

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.06.2022

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

WP.NO.2426 OF 2018

A.Savarimuthu

.. Petitioner

Versus

1. Government of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue and Disaster Management Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Revenue Administration,
Chepauk, Chennai - 600 005.
3. The District Collector,
Sivagangai District,
Sivagangai.

.. Respondents

Prayer:-

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the entire records pertaining to the order passed by the first respondent in Government Letter No.42390/Pani-8(2)/2016-5 dated 29.08.2017, quash the same and consequently direct the respondents to grant minimum pension to the petitioner in the post of Village Administrative Officer in the light of the order dated 28.11.2008 passed by this Court in W.P.No.20747 of 2008 and 26540 of 2008 with all consequential monetary benefits within a period that may be stipulated by this Court.

For Petitioner : Mr.S.Mani

For Respondents : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader

ORDER

The prayer sought for herein is for a writ of certiorarified mandamus, to quash the order passed by the first respondent in

Government Letter No.42390/Pani-8(2)/2016-5 dated 29.08.2017 and consequently direct the respondents to grant minimum pension to the petitioner in the post of Village Administrative Officer in the light of the order dated 28.11.2008 passed by this Court in W.P.No.20747 of 2008 and 26540 of 2008 with all consequential monetary benefits within a period that may be stipulated by this Court.

2.The petitioner was appointed as Village Karnam in the Revenue Department by the Revenue Divisional Officer, Sivagangai on 16.11.1978. In that capacity, he was working for eight months and since it was a temporary appointment, for want of vacancy or otherwise he lost the job on 17.07.1979. Subsequently, before the petitioner get reappointment on the basis of causing the vacancy, the State Government promulgated an Ordinance called Tamil Nadu Ordinance No.10/1980 which was subsequently replaced by an Act under which those Village Officers like Munsif or Karnam or Headman who were on the job on the date of Ordinance, i.e. on 14.11.1980 would be ousted at one stroke. Accordingly, thousands of such Village Munsif or Karnam who were on service as on 14.11.1980 lost their job.

3.Though a long legal battle was undertaken by those who lost the job, ultimately it ended in favour of the Government.

4.Subsequently, in replacing the post of Village Munsif or Karnam, the Government thought it fit to bring a post called Village Administrative Officer [VAO], for which the minimum educational qualification was S.S.L.C. And the recruitments were made through recruiting agency to fill up the post of Village Administrative Officer created in lieu of Village Munsif or Karnam.

5.In this context, those who lost the job on 14.11.1980 as stated supra made a plea before the Government for re-employment and in this context, as per the orders of the Court those who become qualified or already been qualified to hold the post of Village Administrative Officer were re-appointed by conducting limited qualifying examination and accordingly, several such persons were re-employed in later years of 1980 and some of them have been given such postings of VAO in 1990s also.

6.Still some of the persons though were qualified to hold the post of VAO were not given the post of VAO and therefore, in respect of those candidates, such appointments were given after 2000 also.

7.It is in this context, the petitioner since has qualified with S.S.L.C. in the year 1963 itself, he was kept in a waiting list and subsequently he was considered for appointment as VAO

and he was re-appointed as Village Administrative Officer on 26.04.2001. He was working in that capacity upto 31.05.2004 and on that date, because of superannuation he retired from service.

8. In this context, it is to be noted that those who lost the job of Village Munsif and Karnam as on 14.11.1980, subsequently was re-appointed as VAO and after retirement in such post of VAO where if they have not completed 10 years of minimum service to become qualified to get minimum pension under the Pension Rules were not given pension.

9. Therefore, a huge plea was made by these people who worked for less than 10 years in the re-appointed VAO post as they could not get even the minimum pension. The plea was accepted by the Government. Accordingly, G.O.Ms.No.756 Revenue Department dated 17.08.1993 was issued under which those who lost the job on 14.11.1980 because of Ordinance and subsequently was re-appointed as VAO and who 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.

10. Several such persons under G.O.Ms.No.756 Revenue Department dated 17.08.1993 were benefited.

11. The said benefit have been further extended for another set of people by issuance of G.O.Ms.No.148 Revenue Department dated 20.04.2011.

12. 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.

13. In this context, it is the case of the petitioner that the petitioner also lost the job by 14.11.1980 Ordinance and subsequently was re-appointed on 26.04.2001 and because of superannuation retired from service on 31.05.2004, therefore he 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 petitioner also shall 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. When such a request was made by the petitioner to the respondents which was considered and turned out by the order of the first respondent dated 29.08.2017 where they have stated that the benefit extended to others cannot be extended to the petitioner and accordingly, it was rejected. Challenging the same, the present writ petition has been filed.

15. Relying upon the aforesaid Government Orders, Mr.S.Mani, learned counsel appearing for the petitioner would canvass the point that the petitioner is 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 petitioner by taking the combined services in the re-appointed post of VAO as well as the period from 14.11.1980 to the petitioner also for calculating the minimum pensionable service for the purpose of sanctioning the minimum pension.

16. However, Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader appearing for the respondents would submit that in all the Government Orders referred above, one point that was made clear by the Government was 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.

17. Here in the case on hand, according to the learned Additional Government Pleader the petitioner was in the job of Village Karnam on temporary basis with effect from 16.11.1978 till 17.07.1979, i.e about either months only.

18. Thereafter, he was never appointed or never engaged either temporarily or on permanent basis in the post of Village Munsif or Karnam before 14.11.1980.

19. Therefore, according to the learned Additional Government Pleader it has become clear that on 14.11.1980 the petitioner

did not hold the post of Ex-Village Munsif or Karnam and he was not the person who lost the job by virtue of the Ordinance dated 14.11.1980. When that being so, the benefit extended to the other persons under the Government Orders referred above cannot be extended to the petitioner because those persons who lost the job on 14.11.1980 alone are entitled to get the benefit of minimum pension by calculating their services with effect from 14.11.1980. Therefore, such kind of special benefit cannot be extended to those who did not hold any post temporarily or on permanent basis as on 14.11.1980. Hence, the learned Additional Government Pleader would contend that the plea raised by the petitioner cannot be acceded to.

20.The learned counsel appearing for the petitioner also has 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.

21.Relying upon this Division Bench judgment and another judgment of a review application, i.e. Rev.Aplw(MD).Nos.101 and 102 of 2021 dated 14.12.2021 in the matter of S.S.Kallabiran and K.Omaiyorupagam vs. K.Shanmugam and others, the learned Additional Government Pleader would contend that the persons who lost the job of Ex-Village Munsif or Karnam dated 14.11.1980 alone were considered to be the candidates for the purpose of getting minimum pension by calculating their service from 14.11.1980 and this has been made clear in the said judgments.

22.That apart, the learned Additional Government Pleader would further contend that another line of Government Orders have been issued by the Government in G.O.Ms.No.828 Revenue dated 23.08.1998, G.O.Ms.No.629 Revenue dated 22.07.1998 and lastly G.O.Ms.No.753 Revenue Department dated 09.09.1998. In these Government Orders, those who were working as Village Munsif or Karnam as on 14.11.1980 but lost their job because of the Ordinance 10/1980 and subsequently had not been re-appointed for want of qualification or age, in respect of those Ex-Village Munsif or Karnam whether the special pension can be granted or not was under consideration of the Government. Ultimately the Government have come forward to issue those two Government Orders in which special pension at the rate of Rs.175/- per month or Rs.100/- pr month as the case may be as pension or family pension were sanctioned which has been subsequently enhanced to Rs.250/- per month or Rs.150/- per month as the case may be and this special pension was extended to those who were in the job as Ex-Village Munsif or Karnam as on 14.11.1980 but was not literally working because of the leave or suspension, for those people also the said benefit of pension or family

pension was extended by G.O.Ms.No.753 dated 09.09.1998 referred above.

23. Therefore, the two sets of Government Orders issued in this regard would confer the benefit only to those who lost the job on 14.11.1980 and not those who did not lose the job on 14.11.1980 or in other words who are not in service as on 14.11.1980.

24. I have considered the rival submissions made by the learned counsels for the parties and have perused the materials placed before this Court.

25. Insofar as the legal argument advanced by the learned Additional Government Pleader appearing for the respondent, it is to be accepted.

26. The line of 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.

27. Nevertheless, who all are the beneficiaries under these Government Orders are to be looked into.

28. 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.

29. It is the strong case on the part of the petitioner that majority of those beneficiaries though worked as Village Munsif or Karnam prior to 14.11.1980 i.e. in the 1976, 1978 or even 1979 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.

30. In this context, the petitioner is able to point out that Sl.No.29 one R.Palanisamy who was working prior to 14.11.1980 and not on 14.11.1980 and who was re-appointed on 19.04.2001 and superannuated on 31.10.2009. Therefore, in his case though he did not hold the post of Village Munsif or Karnam as on 14.11.1980 he was also considered for extending the benefit under G.O.Ms.No.158 dated 08.04.2015. Like that, several other persons, according to the information received by the

petitioner, as projected by the learned counsel for the petitioner, who did not hold the post of Village Munsif or Karnam as on 14.11.1980 also had been considered and granted the minimum pension by taking into account their loss of post of Village Munsif or Karnam even prior to 14.11.1980 by construing their loss of such post as on 14.11.1980 and accordingly such benefit had been extended.

31. Therefore, the learned counsel for the petitioner has a presentable case before this Court. Insofar as the petitioner is concerned admittedly he was in the post of Village Karnam between 16.11.1978 and 17.07.1979 and therefore that should also be considered as a job which he lost as on 14.11.1980 because of the Ordinance, otherwise the petitioner would have been considered for re-appointment in the said post of Village Munsif or Karnam. Therefore, the construction made by the respondent by extending the benefit to 184 people under the G.O. can be extended to the petitioner also. The said submission made by the learned counsel for the petitioner is appealing to this Court in view of G.O.Ms.No.158 dated 08.04.2015 under which some of the beneficiaries who literally did not hold the post of Village Munsif or Karnam as on 14.11.1980 had also been given or extended the benefits. Therefore, such kind of benefit can very well be extended to the petitioner.

32. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

- ♦ That the impugned order dated 29.08.2017 is hereby quashed. As a sequel, there shall be a direction to the respondents to consider the request of the petitioner and treat him as a person who lost the job as on 14.11.1980 and accordingly by taking into account his service with effect from 26.04.2001 till 31.05.2004 as Village Administrative Officer along with the service 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 calculate the minimum pension payable to the petitioner from the date of his request, i.e. 03.02.2017 and pay the same with arrears to the petitioner.
- ♦ The needful as indicated above shall be undertaken by the respondents within a period of eight weeks from the date of receipt of a copy of this order.

33. With these directions, this writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Revenue and Disaster Management Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Revenue Administration,
Chepauk, Chennai - 600 005.
3. The District Collector,
Sivagangai District,
Sivagangai.

+1cc to the Government Pleader, S.R.No.41994

WP.No.2426 of 2018

SSI(CO)
PM/14/07/2022