



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.4316 of 2022

R.Veilmuthu

... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Revenue Department,
Secretariat,
Chennai-600 009.

2.The Principal Secretary and Commissioner of Revenue,
Administration, Ezhilagam,
Chepauk,
Chennai-600 005.

3.The District Collector,
Thoothukudi District,
Thoothukudi.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the 1st respondent i.e. the Additional Chief Secretary to Government, Revenue Department Secretariat, Chennai to pass positive orders counting 50% of services of the petitioner as Thalayari for the period from 13.05.1984 to 31.05.1995 for the purpose of calculation of pension along with entire service put in by him as Village Assistant from 01.06.1995 to 31.05.2021 and arrange to send revised pension proposals within a specified time frame, that may be fixed by this court.

For Petitioner : Mr.S.Visvalingam

For Respondent : Mr.A.K.Manikkam,
Special Government Pleader

O R D E R

The relief sought for in the present writ petition is to direct the first respondent to pass positive orders counting 50% of service of the petitioner as Thalayari for the period from



13.05.1984 to 31.05.1994, for the purpose of calculation of pension along with entire service put in by the petitioner as Village Assistant.

2. The petitioner was appointed as Permanent Thalayari on 12.05.1984 and serving continuously. The appointment was made on temporary basis. Subsequently, he was absorbed in the regular time scale of pay and re-designated the post of Village Assistant with effect from 01.06.1995. The petitioner retired as Village Assistant on 31.05.2021.

3. The grievance of the writ petitioner is that 50% period of service as permanent Thalayari is to be reckoned for the purpose of quantifying the service for grant of pensionary benefits.

4. With regard to the issue (i.e.,) counting of 50% service under Rule 11(4) of the Tamil Nadu Pension Rules, 1978, large number of writ petitions were filed by various categories of employees working in the different Government Departments and the Courts have held that the eligibility must be ascertained with reference to the Rules and service records. However, in respect of Village Assistant, this Court has dealt with the issue in W.P(MD).Nos.3496 to 3498 of 2015 on 10.07.2019, in which, the Tamil Nadu Village Servants Service Rules, Tamil Nadu Village Officers (Appointed under Board's Standing Orders) Service Rules 1978 and the Pension Rules were considered elaborately and a judgment was delivered on 10.07.2019. The relevant paragraphs are extracted hereunder:

27.As far as the present writ petitions are concerned, the writ petitioners were appointed in the year 1975. They were brought under the provision of the Tamil Nadu Servants Service Rules, 1980, in the year 1980. All these writ petitioners were brought under the regular establishment with effect from 01.06.1995 and their services were also regularised. Therefore, they are entitled to get the terminal and pensionary benefits with effect from the date of their respective regularisation.

28.The amended Rule 11(4) of the Tamil Nadu Pension Rules, 1978 stipulates that the part-time employees are not entitled for counting of 50% of the service rendered as part-time employees. The amended Rule 11(4) is applicable to the full-time temporary employment and not for part-time employees. This being the purport of the amended Rule 11(4) of the Tamil Nadu Pension Rules, the writ petitioners are not entitled to avail the benefit of counting of 50% of the services based on the Rule 11(4) of the Tamil Nadu Pension Rules 1978. The pensionary and terminal benefits were already settled in favour of the writ petitioners with effect from the date of their respective regularisation and in consonance with the service rules in force and in accordance with the



Tamil Nadu Pension Rules, 1978.

29. Thus, the writ petitioners have not established that they are not part-time employees. Contrarily, the learned Additional Government Pleader is able to establish before this Court that the post of Village Assistants were part-time employment and therefore, they are not entitled to count 50% of the services for the purpose of calculating the qualifying service with reference to Rule 11(4) of the Tamil Nadu Pension Rules 1978.

30. In view of the above observations, these writ petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

5. In the present writ petition on hand, the petitioner was also brought under the regular establishment with effect from 01.06.1995 which is the date on which the writ petitioner in the above judgment was brought under the regular establishment. Therefore, the judgment would be squarely applicable.

6. The Hon'ble Division Bench, in the case of **State of Tamil Nadu represented by its Principal Secretary to Government, Revenue Department, Secretariat, Chennai-600 009 and others vs. E. Balachandran reported in 2021 3 MLJ 92**, reiterated the same line of the principles and allowed the appeal filed by the State of Tamil Nadu. The Hon'ble Division Bench elaborately considered the Rules and the earlier judgments of the Hon'ble Division Bench and other issues raised between the parties. The relevant portion of the judgment is extracted hereunder:

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.

7. The Hon'ble Division Bench considered the nature of employment and re-employment with reference to the Rules applicable. Therefore, the present writ petition also falls on the same ground and thus, the petitioner is not entitled for the relief sought for in the present writ petition.



8. Accordingly, the Writ Petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-III)

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Sub Assistant Registrar(CS)

ssb

To

- 1.The Additional Chief Secretary to Government,
Revenue Department,
Secretariat,
Chennai-600 009.
- 2.The Principal Secretary and Commissioner of Revenue,
Administration, Ezhilagam,
Chepauk,
Chennai-600 005.
- 3.The District Collector,
Thoothukudi District,
Thoothukudi.

+1 CC to M/s.SPL GP (SR-11547[F] dated 11/03/2022)

W.P.(MD) No.4316 of 2022
10.03.2022

sp(CO)

TR(25.03.2022) 4P 5C