



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 25.04.2021

DELIVERED ON :19.05.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P (MD)No.2411 of 2017

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N.S.Shanmugasundaram

... Petitioner

Vs.

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

2.The Principal Secretary &
Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai-600 028.

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 the records of the second respondent i.e., the Principal Secretary and Commissioner of Revenue Administration, Chennai relating to his letter ந.க.எண்.வ.நி.2[2]/46770/2016, நாள்: 30.12.2016 communicated by the District Collector, Sivagangai in his endorsement No.A6/7676/2013 dated 03.01.2017 and quash the same and consequently direct the first and second respondents to sanction minimum pension to the petitioner also on par with similarly placed persons as per G.O.(Perm).No.148 Revenue Department, dated, 20.04.2011 within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.S.Kameswaran

Government Advocate(Civil Side)

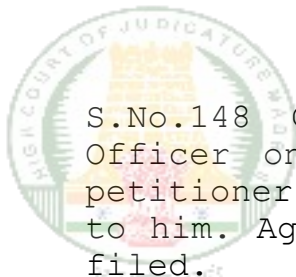
O R D E R

This writ petition has been filed to quash the impugned order, dated, 30.12.2016 and consequently, direct the first and second respondents to sanction minimum pension to the petitioner on par with similarly placed persons as per G.O. (Perm) No. 148 Revenue Department, dated, 20.04.2011.



2. The brief facts of the case are that the petitioner was appointed as Village Administrative Officer from 11.11.2005 to 31.07.2012. The petitioner has attained superannuation on 31.07.2012 and retired from service. The petitioner's service was regularized in the cadre of Village Administrative Officer from the date of joining i.e., from 11.11.2005 as per G.O.No.321, Revenue Department, dated, 03.08.2010. Before the appointment of Village Administrative Officer, the petitioner was serving as Karnam and Headman from 01.04.1976. The Government has sanctioned minimum pension to the former Village Administrative Officers who did not complete 10 years of service as per G.O. (Perm) No.148, Revenue Department, dated, 20.04.2011 and based on this G.O., 199 Village Administrative Officers who had not completed 10 years of service were granted minimum pension. The petitioner applied to the first respondent for grant of minimum pension on par with other Village Administrative Officers, who were granted minimum pension. The petitioner submitted his representation, dated, 20.01.2014. Based on the representation, the first respondent had also called for proposals from the District Collector, Sivagangai. In the meanwhile, the petitioner has filed W.P.(MD)No.19026 of 2016, for direction to sanction of minimum pension as per G.O(Perm)No.148, Revenue Department, dated, 20.04.2011. This Court vide order, dated, 04.10.2016, directed to pass appropriate orders on the representation, dated, 02.11.2015. The contention of the petitioner is that the second respondent had rejected the request of the petitioner for sanction of minimum pension on the ground that the petitioner had joined duty as Village Administrative Officer only on 11.11.2005 i.e., after 01.04.2003, the date from which the pension scheme is not available as per G.O.No.259, Pension Department, dated, 06.08.2003.

3. The contention of the petitioner is that the impugned orders are passed without any application of mind. The Village Administrative Officers were granted minimum pension irrespective of the date of joining as Village Administrative Officer, since they were previously serving as Karnam and Headman even before 01.04.2003. Their posts were abolished and the new time scale post of Village Administrative Officer was introduced from 14.11.1980. Considering the pathetic situation of the then hereditary Karnam and Headman, who were subsequently absorbed as Village Administrative Officer according to the qualification, the scheme of minimum pension was introduced. According to the petitioner, in G.O.Ms.No.148, Revenue department, dated, 20.04.2011, 199 Village Administrative Officers were granted minimum pension. For example, in S.No.29, T.Subramanian, who joined duty as Village Administrative Officer on 02.11.2005. S.No.32 R.Tamilmani, who joined duty as Village Administrative Officer on 28.10.2005, S.No.68, P.Subbiah who joined duty as Village Administrative Officer on 28.10.2005, S.No.108 K.Karunanidhi, who joined duty as Village Administrative Officer on 27.10.2005, S.No.110 P.M.Loganathan, who joined duty as Village Administrative Officer on 17.11.2005, S.No.123, N.Perumal, who joined duty as Village Administrative Officer on 28.10.2005 and

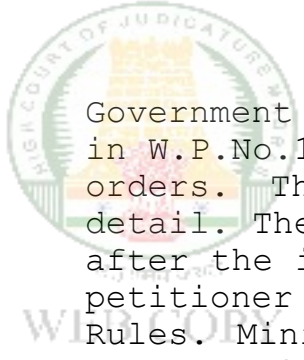


S.No.148 C.Ramanujam who joined duty as Village Administrative Officer on 26.10.2005 were sanctioned minimum pension. Since the petitioner is also similarly placed person, the same was not granted to him. Aggrieved over the same, the present writ petition has been filed.

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4. The respondents have filed a counter stating that the petitioner was appointed as Village Administrative Officer as per the orders of the District Collector, Sivagangai, dated, 09.11.2005, consequent to passing of the special qualifying examination. The petitioner has joined duty as Village Administrative Officer on 11.11.2005. He has rendered service and retired on 31.07.2012. The petitioner has entered into service consequent to the introduction of contributory pension scheme, which came into force on 01.04.2003. The petitioner has rendered 6 years 8 months and 20 days of service and hence, he is eligible only for contributory pension scheme. Based on the order of this Court, the representation of the petitioner was considered in accordance with law. Since the petitioner has joined duty on 11.11.2005 i.e., after 01.04.2003, the petitioner is not entitled to regular pension. The minimum pension has been sanctioned in G.O.Ms.No.158 Revenue [Ser.8(2)] Department, dated, 08.04.2015 in respect of 184 Ex.Village Officers, who have lost their job consequent to the abolition of Ex.Village Officers post on 14.11.1980 and appointed as Village Administrative Officers before 01.04.2003 and retired without completing the required minimum qualifying service of 10 years, by relaxation of Rule 43 of the Tamil Nadu Pension Rules, 1978. Hence the petitioner is not entitled for minimum pension and therefore the request of the petitioner was rejected through impugned order. The petitioner has served as Karnam and Headman from 01.04.1976, but he was not on duty as Ex.Village Officer as on 14.11.1980 and the petitioner had served only for 4 months and 17 days prior to 14.11.1980. It is further submitted that considering the Ex.Village Officers, who have not been provided with appointment either in first phase or in second phase, the Government had issued G.O.Ms.No.954 Revenue Department, dated, 16.10.1997 for providing appointment to such left over Ex.Village Officers who have got their names registered in the Employment Exchange. The petitioner was appointed as per the orders of the District Revenue Officer, Sivagangai, dated, 09.11.2005. The petitioner had joined duty on 11.11.2005 and worked till 31.07.2012. Thus the petitioner has rendered qualifying service of 6 years 8 months and 20 days only as on the date of his retirement. The petitioner is not entitled to minimum pension by relaxation of Rule 43 of the Tamil Nadu Pension Rules, 1978 since he was entered into service on 11.11.2005 only after 01.04.2003, the date on which, the Contributory Pension Scheme has been introduced in which there is no provision for the grant of retiring pension. It is further submitted that some of them joined as Village Administrative Officers only after 01.04.2003 and their names have been included in G.O.Ms.No.148, Revenue Department, dated, 20.04.2011 by mistake and

<https://hcservices.courts.gov.in/services/> the services names by issuing errata to the above mentioned

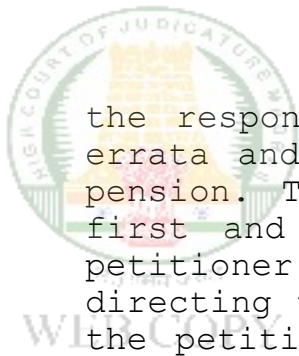


Government Order is in process. The petitioner filed writ petition in W.P.No.19026 of 2016 and this court directed to consider and pass orders. The respondents considered the petitioner's request in detail. The petitioner entered into service only on 11.11.2005, i.e. after the introduction Contributory Pension Scheme and therefore the petitioner is not entitled for Regular Pension as per the Pension Rules. Minimum pension has been sanctioned in G.O. Ms. No. 158 in respect of 184 Ex-Village Offices who have lost their job consequent to the abolition of Ex-Village Officers post on 14.11.1989 and appointed as VAO before 01.04.2003 and retired without completing the required minimum qualifying service of 10 years, by relaxation of rule 43 of the Pension Rules. Hence the petitioner is not entitled to minimum pension as per the impugned order. The respondents have also submitted that the petitioner was not on duty as on 14.11.1980, the date on which, the post of Ex-Village Officers was abolished and hence, the respondents have prayed for dismissal of the writ petition.

5. Heard Mr.S.Visvalingam, learned counsel appearing for the petitioner and Mr.S.Kameswaran, learned Government Advocate (Civil Side) appearing for the respondents and perused the records.

6. It is seen from the records that the petitioner was appointed in service on 11.11.2005 and he has served as Karnam and Headman from 1976 onwards. The Government has issued G.O.(Perm) No.148, Revenue Department, dated, 20.04.2011 and based on this G.O., 199 Village Administrative Officers who had not completed 10 years of service were granted minimum pension. The petitioner cannot be considered that he has lost his job consequent to the abolition of Ex.Village Officers, since he was not on duty as on 14.11.1980. Moreover, the petitioner had entered into service as Village Administrative Officer only after 01.04.2003, the date on which, the pension scheme is not available as per G.O.No.259, Pension Department, dated, 06.08.2003. The Government has introduced the new contributory pension scheme for all employees, who were granted appointment on or before 01.04.2003 and Rule 43 of the Tamil Nadu Pension Rules, 1978 was not applicable to the Government servants who were appointed on or after 01.04.2003. The claim of the petitioner is that since some of the Village Administrative Officers, who had been appointed on or after 2005 were granted minimum pension based on G.O.Ms.No.148. However, the respondents had submitted that the inclusion of some of them joined as Village Administrative Officers, who had been appointed after 2005 is a mistake and steps are being taken to delete the names which are wrongly entered. If the claim of the petitioner is considered, then other similarly placed persons would also claim the same benefits as like that of the petitioner.

7. Therefore, this Court is of the considered opinion, if the respondents had issued any errata, thereby removed the names of the similarly placed persons, who have been granted special pension, it is for the respondents to consider the claim of the petitioner. However,



the respondents are not in a position to clarify the issuance of errata and deletion of the names who were wrongly granted special pension. Therefore this Court is of the considered view that the first and second respondents ought to consider the case of the petitioner and should pass a speaking order and hence this Court is directing the first and second respondents to consider the claim of the petitioner and pass a fresh speaking order. The said exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

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 Secretary to Government,
Revenue Department,
Secretariat,
Chennai-600 009.

2.The Principal Secretary &
Commissioner of Revenue Administration,
Ezhilagam, Chepauk,
Chennai-600 028.

3.The District Collector,
Sivagangai District,
Sivagangai.

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-24001[F] dated 23/05/2022)

+1 CC to M/s.SPL.GP (SR-24036[F] dated 23/05/2022)

Order made in
W.P. (MD)No.2411 of 2017
19.05.2022

PKP/31.05.2022/5P/6C