IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.03.2023**

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No. 24323 of 2016
and
WMP.No. 20817 of 2016

K. Ramasamy ...Petitioner

Versus

1. Government of Tamil Nadu
   Represented by its Secretary to Government
   Revenue Department
   Secretariat, Chennai-600 009.

2. The Commissioner of Revenue Administration
   Chepauk, Chennai - 600 009.

3. The District Collector
   Salem District, Salem.

4. The Tahsildar
   Attur Taluk
   Attur-636 102.

5. The Principal Accountant - General (A&E)
   Tamil Nadu, Chennai - 600 018. ...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent herein in Government Order No. 158, Revenue (Ser.8(2) Department, dated 08.04.2015 and quash the same to the limited extent of the date of commencement of grant of minimum pension with effect from the date of issue of order i.e., on 08.04.2015 instead of "from the day following the date of retirement" and to consequently, direct the respondents herein to grant minimum pension to the petitioner with effect from 01.06.2007 till 07.04.2015 apart from the regular grant of pension with effect from 08.04.2015 onwards.

For Petitioner	:	Mr.M.Ravi for Mr.S.Manivannan
For Respondents	:	Mr.D. Gopal Government Advocate

O R D E R

This Writ Petition has been filed challenging the order passed by the first respondent in G.O.(Ms).No.158, Revenue (Service - 8(2) Department, dated 08.04.2015 and quash the same to the limited extent of the date of commencement of grant of minimum pension with effect from the date of issue of order i.e., on 08.04.2015 instead of "from the day following the date of retirement" and consequently, direct the respondents to grant minimum pension to the petitioner with effect from 01.06.2007 till 07.04.2015, apart from the regular grant of pension with effect from

08.04.2015 onwards.

2. The case of the petitioner is that the petitioner was serving as Village Munsif in Oonathur Village, Attur Taluk, Salem District from 01.02.1973 to 14.11.1980. Subsequently, the Government abolished the post of part time village officers with effect from 14.11.1980 and the petitioner was later on appointed as Panchayat Assistant in the same Village on 01.01.1991, in which, he served till 18.08.1998.The District Revenue Officer, Salem appointed the petitioner as the Village Administrative Officer, Pattutharai Village and he joined duty in that post on 19.08.1998. The petitioner was permitted to retire on 31.05.2007 on attaining the age of superannuation. However, no pensionary benefits were paid, since he has not rendered 10 years of service as Village Administrative Officer. While so, the Government, by G.O.Ms.No. 158, Revenue (Ser.8(2) Department, dated 08.04.2015 granted minimum pension to 184 retired Village Administrative Officers who were appointed prior to 01.04.2003 and who had not completed 10 years of service and such sanction of minimum pension was given effect from the date of the said G.O. and not from the next day after the date of retirement.

Hence, the petitioner has submitted a representation dated 23.12.2005 to the first respondent, requesting to grant minimum pension from the next day after the date of his retirement, but no order has been passed thereon. Therefore, the petitioner has come forward with the present writ petition under Article 226 of the Constitution of India.

3. Counter affidavit has been filed on behalf of the respondents stating that the petitioner was working as part time Village Munsif in Oonathur Village in Attur Taluk, Salem District prior to 14.11.1980 and he was retrenched on 14.11.1980 and consequently, on the promulgation of Ordinance abolishing the posts of Village Officers. The petitioner was appointed on 19.08.1998 and he retired from service on 31.05.2007. It is submitted that as per the Rule 43 of the Tamil Nadu Pension Rules, 1978, retired Government Servants, who are completing qualifying service of not less than 10 years, is eligible for getting pension. The Government of Tamil Nadu, on humanitarian consideration, ordered that the Village Administrative Officers including the petitioner were accorded minimum pension even though they have not completed 10 years of service by relaxing Rule 43 of the Tamil Nadu Pension Rules, 1978. It is submitted

that the writ petitioner worked as part time Village Munsif before 14.11.1980 and after abolition of the post of part time Village Karnam and Munsif by Government on 14.11.1980, the writ petitioner was appointed as Village Administrative Officer, Pattuthurai Village, Attur Taluk, as per the proceedings of Salem District Revenue Officer in Na.Ka.No. 120599/95/E2, dated 17.08.1998. The Government have abolished the part time post of Village Karnam and Munsif with effect from 14.11.1980 and services rendered by him in part time service, will not be taken into account for calculation of pension. Hence, his seven-years service as Village Munsif prior to 14.11.1980 and Panchayat Assistant for 9 years, will not be taken for calculation of pension. His service in the post of Village Administrative Officer was only 8 years 9 months and 13 days.

4. Since the petitioner has not completed 10 years of qualifying service required for sanctioning minimum pension as per the Tamil Nadu Pension Rules, 1978, he was not sanctioned pension initially. But the Government relaxed the Rule 43 of Tamil Nadu Pension Rules, 1978, vide G.O.Ms.No.158, Revenue Department, dated 08.04.2015 and he was sanctioned minimum pension with effect from 08.04.2015. Therefore, the

petitioner cannot challenge the date of effect of the G.O, as it is policy decision of the Government. The G.O. reflects the policy decision of the Government to redress the grievance of the petitioner. The G.O. reflects the policy decision of the Government to redress the grievance referred and the petitioner cannot claim concession as a matter of right. Though the petitioner was given minimum pension only from the date of issue of G.O., he was given special pension as per G.O.Ms.No.828, Revenue (E.Spl.I) Department, dated 23.08.1996 from the date of retirement in respect of his service rendered as Village Munsif. However, the petitioner has not completed 10 years of service and minimum pension of Rs.3,050/- with attendant benefits, were sanctioned to him on humanitarian consideration, by relaxing Rule 43 of the Tamil Nadu Pension Rules, 1978, vide G.O.Ms.No. 158, Revenue (Ser.8(2) Department, dated 08.04.2015 and though the petitioner was granted special pension as per G.O.Ms.No.828 Rev. (E.Spl.I) Department, dated 23.08.1996 from the date of retirement for the services rendered by him as Village Munsif, it is submitted that, as the G.O. itself is based on liberalized approach of the Government towards the Village Administrative Officers who have not completed 10 years of service. The petitioner could not challenge the date of coming into force of the said G.O. as it is based on the policy decision of the Government. Therefore, the case of the petitioner has no merits and hence, the writ petition is liable to be dismissed.

5. On a perusal of the records, it is seen that the petitioner, namely, K.Ramasamy was working as part time Village Munsif, Oonathur Village in Attur Taluk, Salem District. Subsequently, the Government have abolished the part time post of Village Karnam and Munsif with effect from 14.11.1980 and he had rendered only part time service, which will not be taken into consideration for calculation of pension. Thereafter, the petitioner was appointed as Village Administrative Officer from 19.08.1998 in the same village and he retired from service on 31.05.2007. Since the petitioner has not completed 10 years of qualifying service required for sanctioning minimum pension as per the Tamil Nadu Pension Rules, 1978, he was not sanctioned pension initially. But the Government relaxed Rule 43 of the Tamil Nadu Pension Rules, 1978 vide G.O.Ms.No.158, Revenue Department, dated 08.04.2015 and sanctioned minimum pension with effect from 08.04.2015. Though the petitioner has not completed 10 years of service, minimum pension of Rs.3050/- with

attendant benefits, was sanctioned to him on a humanitarian consideration by relaxing Rule 43 of the Tamil Nadu Pension Rules, 1978, vide G.O.Ms.No.158, Revenue (Ser.8(2) Department, dated 08.04.2015 and though the petitioner was given minimum pension only from the date of issue of G.O., he was given special pension as per G.O.Ms.No. 828, Revenue (E.Spl.I) Department, dated 23.08.1996 from the date of retirement for the services rendered by him as Village Munsif.

6. The learned Government Advocate appearing for the respondents contended that in view of G.O.(Ms).No.158, Revenue [Service-8(2)] Department, dated 08.04.2015, minimum pension has also been paid regularly to the writ petitioner. Hence, the writ petition is liable to be dismissed.

7. Accordingly, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

08.03.2023

Index by : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

To

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

2. The Commissioner of Revenue Administration
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5. The Principal Accountant - General (A&E)
   Tamil Nadu, Chennai - 600 018.

V.BHAVANI SUBBAROYAN, J.

msm

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