



W.P.No.15984 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE J. SATHYA NARAYANA PRASAD

W.P.No.15984 of 2020

C. Sivalingam

... Petitioner

Vs.

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

2. The Commissioner of Revenue Administration
Ezhilagam, Chepauk,
Chennai 600 005.

3. The Collector
Thiruvalluvar District Collectorate
Thiruvalluvar District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Mandamus to direct the respondents to consider the representation dated 29.08.2020 and pass orders on it by considering the petitioner's 50% of service as Village Chowkidhar (Thalaiyari or Girama Kavalar) from 25.07.1981 to 31.05.1995 along with his regular service as Village Assistant from 01.06.1995 to 23.07.2015 and Village Administrative Officer from 24.07.2015 to 30.06.2019 for calculating his pension as per Tamil



W.P.No.15984 of 2020

Nadu Pension Rules, 1978 and to consequently to direct the respondents to send revised pension proposals and to grant revised pension to him within a specified time frame.

For Petitioner : M/s.Kanimozhi Mathi
for Mr.N.Ramamani

For Respondents : Mr.A.M.Ayyadurai
Government Advocate

ORDER

The petitioner has filed the above writ petition praying for issuance of a Writ of Mandamus to direct the respondents to consider the representation dated 29.08.2020 and pass orders on it by considering the petitioner's 50% of service as Village Chowkidhar (Thalaiyari or Girama Kavalar) from 25.07.1981 to 31.05.1995 along with his regular service as Village Assistant from 01.06.1995 to 23.07.2015 and Village Administrative Officer from 24.07.2015 to 30.06.2019 for calculating his pension as per Tamil Nadu Pension Rules, 1978 and to consequently to direct the respondents to send revised pension proposals and to grant revised pension to him within a specified time frame.

2. The learned counsel for the petitioner submitted that the petitioner had joined the service under the 3rd respondent as Village Chowkidhar



(Thalaiyari or Girama Kavalar) at Vadakku Nallur. Appointment order dated 25.07.1981 was issued by the Tahsildar, Ponneri confirming permanency and for consolidated salary and the petitioner served in the said post till 31.05.1995 without any break. Subsequently the post of Village Chowkidhar (Thalaiyari or Girama Kavalar) was re-designated as Village Assistant with effect from 01.06.1995 as per the G.O.(Perm) No.625, Revenue Department dated 06.07.1995 and he was absorbed in the said post as Village Assistant with regular time scale of pay from 01.06.1995 and he served as Village Assistant till 23.07.2015 without any break. Thereafter, the petitioner was promoted to the post of Village Administrative Officer by the proceedings of the Sub-Collector, Ponneri dated 14.10.2016 and he was serving as Village Administrative Officer from 24.07.2015 till he attained superannuation and retired from service on 30.06.2018 by the proceedings of the Revenue Officer, Ponneri dated 28.06.2018.

3. The learned counsel further submitted that after the petitioner's retirement the respondents sanctioned pension to him by calculating the period he had worked as Village Assistant from 01.06.1995 to 23.07.2015 and Village Administrative Officer from 24.07.2015 to 30.06.2018 alone and failed to



consider the service rendered by him as Village Chowkidhar (Thalaiyari or Girama Kavalari) from 25.07.1981 to 31.05.1995. The Hon'ble Madurai Bench of Madras High Court in W.A.(MD).No.370 of 2019 dated 22.10.2019 passed an order that 50% of the services put in holding the post of Village Chowkidhar (Thalaiyari or Girama Kavalari) has to be taken account for the purpose of calculating pension considering Rule 11 (4) of the Tamil Nadu Pension Rules, 1978. Since the grievance of the petitioner was not considered the petitioner has come forward with the present writ petition.

4. Further, in this context, the learned counsel for the petitioner relied upon the judgment of the Division Bench of this Court in W.A.(MD).No.370 of 2019 dated 22.10.2019, wherein the division bench, in the last para held thus:-

“ The writ petition in W.P.(MD).No.70 of 2019 stands allowed in tune with the earlier precedents of this Court. The first respondent is directed to pass orders counting 50% of the services of the appellant put in by him as Thalayari for the period from 07.01.1983 to 31.05.1995 for the purpose of calculation of pension along with regular services put in by him as Village Assistant and Village Administrative Officer and to send revised pension proposals within a period of six weeks from the date of receipt of a copy of this order”.



W.P.No.15984 of 2020

WEB COPY

5. Counter affidavit dated 28.06.2021 has been filed by the 3rd respondent and it is relevant to extract the following paragraphs:-

6) It is humbly submitted that as per the Government letter No.12764/Ser.8(1)/2018-2, dated 20.12.2018 and letter No.39161/Ser.8(1)/2018-5, dated 20.11.2019 of Revenue and Disaster Management Department, Services Wing, Secretariat, Chennai – 9 have issued clarification to point raised by the Senior Accountant General and the same tabulated below:-

1	If a Village Assistant is promoted to the post of Village Administration Officer prior to 01.04.2003, whether the pensionary benefits are admissible as per Tamil Nadu Pension Rules, 1978 on the analogy that Village Assistants are non pensionable (prior to issue of G.O.9) as per G.O.118	Village Assistants in the Revenue Department have been brought under regular establishment from part time to full time with effect from 01.06.1995 and they are paid salary in the non-standard scales of pay, with other usual allowances under orders in force, and these posts are non-pensionable which is governed by Tamil Nadu Village Assistant Pension Rules, 1995. In view of the above position it is clarified that half of the qualifying services rendered in the post of full time Village Assistant with effect from 01.06.1995 which is covered under Tamil Nadu Village Assistants Pension Rules, 1995 may be counted when such service is followed by regular Village Administrative Officer Service, by promotion prior to 01.04.2003 which is governed by Tamil Nadu Pension Rules, 1978 for the purpose of pensionary benefits to the conditions laid down in Rule 11(3) of Tamil Nadu Pension Rule, 1978.
---	---	---



W.P.No.15984 of 2020

WEB COPY

2	If a Village Assistant is promoted to the post of Village Administrative Officer after to 01.04.2003, then the modality as to how his services are to be reckoned for pensionary benefits.	An Employees who held a post with pensionable service under Tamil Nadu Village Assistants Pension Rules, 1995 and promoted subsequently in another post i.e., after 01.04.2003 by recruitment by transfer (promotion) i.e., Village Assistant to Village Administrative Officer, 50% of service rendered by the employee in the post of Village Assistant and the entire service of Village Administrative Officer are to be reckoned for pensionary benefits under Tamil Nadu Pension Rules, 1978.
---	---	--

As per the Tamil Nadu Village Assistant Pension Rules 1995 it has defined as

Chapter – I – General:-

(ii) They shall be deemed to have come into force on 01.06.1995

Chapter – II Pension & Gratuity:-

4 (a) “In computing the length of Service for calculating of pension and gratuity, temporary, officiating and permanent (full time) service shall be reckoned as qualifying service.

Therefore the petitioner is entitled to count their service from 01.06.1995 from the date of the regularisation of the post of Village Assistant, for the purpose of calculating pension and any further claim beyond that is impermissible under law.

6. Heard both sides and perused the materials available on record.

7. In view of the above factual matrix of the case and the ratio laid



W.P.No.15984 of 2020

down by the Division Bench of this Court in W.A.(MD).No.370 of 2019 dated 22.10.2019 as cited supra, this Court is inclined to allow the writ petition.

8. In the result, the writ petition stands allowed and the respondents are directed to consider the petitioner's 50% of service as Village Chowkidhar (Thalaiyari or Girama Kavalur) from 25.07.1981 to 31.05.1995 along with his regular service as Village Assistant from 01.06.1995 to 23.07.2015 and Village Administrative Officer from 24.07.2015 to 30.06.2019 for calculating his pension as per Tamil Nadu Pension Rules, 1978 and also grant revised pension to him within a period of four weeks from the date of receipt of a copy of this order. No costs.

31.08.2023

dpq
Index : Yes/No
Speaking Order : Yes/No



WEB COPY



W.P.No.15984 of 2020

J. SATHYA NARAYANA PRASAD, J.

dpq

W.P.No.15984 of 2020

(2/2)

31.08.2023