



W.P.No.17687 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.17687 of 2018

G.Periyasamy

... Petitioner

-VS-

1. State of Tamil Nadu
Rep by its Principal Secretary,
Department of Revenue,
Secretariat, St. George Fort,
Chennai -9.
2. The Commissioner,
Revenue Administration,
Ezhilagam, Chepauk,
Chennai -5.
3. The District Collector,
Office of District Collector,
Tiruppur, Tiruppur District.
4. The Tashildar,
Dharapuram Taluk,
Tiruppur District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to grant pension to the petitioner by calculating petitioner's entire services from the date of joining the service as part time Village Assistant i.e. from 16.7.1986 onwards instead of date of regularization on 1.6.1995 upto petitioner's retirement on 30.6.2016 with arrears by considering petitioner's representation dated 28.2.2018.

For Petitioner : Mr.N.Ponraj

For Respondents : Mr.K.H.Ravikumar,
Government Advocate

ORDER

This Writ Petition has been filed, seeking for a direction to the respondents to grant pension to the petitioner by calculating petitioner's entire services from the date of joining the service as part time Village Assistant i.e., from 16.07.1986 onwards instead of date of regularization on 01.06.1995 upto the petitioner's retirement on 30.6.2016 with arrears by considering the petitioner's representation dated 28.02.2018.



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2.It is the case of the petitioner that he was working as Village Assistant (Village Thalayaris) in Peramiyam Village of Dharapuram Taluk and retired on 30.06.2016 without any blemish records and in terms of G.O. (Ms) No. 625, Revenue department dated 06.07.1995, several part time Village Assistants, including the petitioner were made permanent and their services were ordered to be regularized retrospectively from 01.06.1995. Further, there was a Rule framed by the Government, namely, Tamil Nadu Village Assistants Pension Rules, 1995 in G.O.(3D) No.9 Revenue [ser 7(1)] dated 28.02.2006 whereby Village Assistants' salary was upgraded in the Time Scale of Pay with all other allowances and they are also eligible for pension, if they have rendered a total qualifying service of 10 years or more after 1995.

3.It is further case of the petitioner that though he had put in 30 years of service from 16.07.1986 to 30.06.2016 without any bad records, his service was taken only from 01.06.1995 for granting pension, which had resulted in getting only a meager amount as pension by him and as per clause 4(a) of Chapter II- Pension and Gratuity of the Tamil Nadu Village



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Assistants Pension Rules, 1995 read with Clause 11 of the Tamil Nadu Pension Rules, 1978, pension should be calculated from the date of joining the service of the Respondents as part time Village Assistant i.e. from 01.01.1980 onwards. That apart, a similarly placed person, K.Raman is getting pension from the date of joining the service based on the orders of this Court, which was implemented through G.O. (Ms) No. 33, Revenue [Ser-8(1)] Department dated 25.01.2010. Though he had sent a representation on 28.02.2018 to the respondents for favourable consideration, there is no response till now. Hence, the petitioner is before this Court.

4.The Learned Government Advocate contended that the petitioner has rendered Government Service as part time Village Assistant from 16.07.1986 to 31.05.1995 (9 years) and full time Government Servant from 01.06.1995 to 30.06.2016 (21 years), totalling 30 years of service. As per Clause 4(a) of Chapter II of Tamil Nadu Village Assistants Pension Rules 1995, in computing the length of service for calculation of pension and



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gratuity, temporary, officiating and permanent (full time) service shall be reckoned as qualifying service. Moreover, in terms of Clause 11(1) of the Tamil Nadu Pension Rules 1978, the qualifying service of a Government Servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity. He further contended that the petitioner had joined as part time Government Servant on 16.07.1986, which is a post having only Honorarium. The post of Village Assistant was brought under regular Establishment only with effect from 01.06.1995 and therefore, the provision laid down in Rule 11 of Tamil Nadu pension Rules, 1978 will not apply to the post of Village Assistant.

5.The learned Government Advocate further pointed out that as per the judgment of the Madurai Bench of Madras High Court dated 24.08.2007 passed in W.P.(MD) No.1716 of 2005, considering the length of service of the similarly placed person, viz., Raman Nair from 21.07.1995, as a special case, Government issued order in G.O.Ms.No.33 Revenue (Ser-8(1)



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Department dated 25.01.2010, which is not applicable to the case of the petitioner. He also pointed out that the representation dated. 28.02.2018 submitted by the petitioner to calculate his service from the date of joining i.e. on 16.07.1986 instead of 01.06.1995 was considered and a suitable reply was also sent to the petitioner in Dharapuram Tahsildar's Ref. No. 1587/2018/B1 dated 04.07.2018 to the extent that the service of part time Village Assistant will not be taken into account for the calculation of pension as per Clause 4(a) of chapter II of Tamil Nadu Village Assistants Pension Rules 1995.

6. Heard the learned counsel appearing on either side and perused the material on record.

7. It is not in dispute that the petitioner was initially employed as Village Assistant (Village Thalayaris) in Peramiyam Village of Dharapuram Taluk and was attained permanency vide G.O. (Ms) No. 625, Revenue department dated 06.07.1995 along with others. Learned Government



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Advocate drew the attention of this Court Clause 11(1) of the Tamil Nadu Pension Rules 1978, which stipulates that the qualifying service of a Government Servant would be reckoned from the date of his first appointment. According to the respondents, the petitioner was paid only honorarium, when he was serving as Village Assistant (Village Thalayaris) and therefore, he is not entitled to the relief sought for.

8. On a perusal of the communication dated 20.10.2023, addressed to the Government Advocate by the District Collector, it is seen that in the light of the judgment of Supreme Court in SLP(C) Nos. 1056-10522/2021, the service of the petitioner prior to 01.06.1995 cannot be taken into account for the purpose of granting pensionary benefits. The order of this Court in W.P.No.31074 of 2018, directing to count 50% of the services till the date of regularization has been put to challenge before this Court in W.A.SR.No.60595 of 2023 and therefore, the request of the petitioner in respect of pensionary benefits for the period prior to regularization cannot be acceded to and is liable to be rejected.



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9. For the foregoing discussions, this Writ Petition lacks merits acceptance and is dismissed as devoid of merits. No costs.

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Index : Yes/No
Speaking order : Yes/No
Neutral citation : Yes/No
mps

To

1. The Principal Secretary,
State of Tamil Nadu
Department of Revenue,
Secretariat, St. George Fort,
Chennai -9.
2. The Commissioner,
Revenue Administration,
Ezhilagam, Chempauk,
Chennai -5.
3. The District Collector,
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V.BHAVANI SUBBAROYAN, J,

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