



W.P.No.25562 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 06.11.2023

CORAM :

THE HON'BLE Ms. JUSTICE R.N. MANJULA

W.P.No.25562 of 2021

&

WMP.No.26979 of 2021

T.A. Sethupathy Ramalingam

... Petitioner

Versus

- 1.State of Tamil Nadu,
Rep.by the Secretary to Government,
Finance (Pension) Department,
Secretariat,
Chennai – 600 009.
- 2.The Secretary to Government,
Revenue Department,
Secretariat,
Chennai – 600 009.
- 3.The District Collector,
Namakkal District.
Namakkal.
- 4.The Revenue Divisional Officer,
Tiruchengode,
Namakkal District.
- 5.The Tahsildar,
Tiruchengode Taluk,
Tiruchengode.



W.P.No.25562 of 2021

6. The Principal Accountant General,
(Accounts and Establishment),
Tamil Nadu,
No.361, Anna Salai,
Teynampet,
Chennai – 600 018.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent pertaining to his order made in Letter No.2001/Ser 8(2)/2016-2, dated 23.09.2016 and quash the same consequent to direct the respondents 1, 2 & 6 to count half of the service rendered by the petitioner from 17.11.1967 to 13.11.1980 along with his regular service and thereby to revise and re-fix his retirement service benefits including pension and pay the arrears of the same to him.

For Petitioner : Mr. C. Premkumar

For Respondent : Mr. P. Sanjai Gandhi,
Government Advocate (for R1 to R5)

: Mrs. Hema Muralikrishnan,
Senior Counsel (for R6)

ORDER

This Writ Petition is filed, challenging the order of the second respondent made in Letter No.2001/Ser 8(2)/2016-2, dated 23.09.2016 and to quash the same and direct the respondents 1, 2 & 6 to count half of the



W.P.No.25562 of 2021

service rendered by the petitioner from 17.11.1967 to 13.11.1980 along with his regular service and thereby to revise and re-fix his retirement service benefits including pension and pay arrears.

2.It is submitted by the learned Government Advocate appearing for the respondents 1 to 5 that as per the order of the Division Bench made in W.A.No.1629 of 2018 batch, dated 26.02.2021, it is held that part time employees like the petitioners are not eligible for the inclusion of half of the service period as contemplated under the Pension Rules.

3.However, the learned counsel for the petitioner has submitted that the petitioner is not a part time servant as mentioned by the learned Government Advocate, but, he was employed for full time.

4.The attention of this Court was drawn to the proceedings of the Tasildhar, Thrichengodu, dated 15.11.2015, in which he permitted the petitioner to retire from 31.07.1999. The said proceedings, it is mentioned that the petitioner has been appointed as permanent employee as Village Munsif and from 17.11.1967 to 14.11.1980. Even prior to that, he was working as a temporary Munsif between 1963 to 1965. If someone is



W.P.No.25562 of 2021

mentioned as a permanent or regular Village Munsif, it goes without saying that the persons employment is not a part time, but, only a full time. It is true that the part time employees might be not entitled to the benefits of inclusion of half of the service for the purpose of pension. But, it is not the case with the petitioner, hence, the petitioner is entitled to the inclusion of half of service.

5.As per the The Tamil Nadu Abolition of Posts of Part-Time Village Officers Act, 1981(*Tamil Nadu Act 3 of 1981*) which came into force from 2nd March 1981, all the part time posts were abolished and hence, it is claimed by the petitioner that the petitioner's service between 17.11.1967 to 13.11.1980 can never be considered as full time service. Because, the full time service came into effect subsequent to the passing of *Act 3 of 1981*, which came into effect after 2nd March 1981. The Revenue and Disaster Management, department, issued a Circular No.2/2022, dated 07.11.2022, and as per the circular, the Village Officers who worked up to/prior to 14.11.1980 have been rewarded under four Categories. The petitioner falls under the Category-II, which is “Village Officers who worked up to 14.11.80 but were not having Minimum General Educational Qualification on 14.11.80. Subsequently passed S.S.L.C and appointed as Village



W.P.No.25562 of 2021

Administrative Officers” because he had passed the S.S.L.C., in the year 1990.

6.As per the Act, all other nomenclature of Village Officers have been abolished and it is brought under an one and only category of the Village Administrative Officers. So far as the petitioner is concerned, he is only qualified from the year 1990 as he has passed S.S.L.C examination on 24.12.1990 and hence, he got an appointment as VAO on and from 24.12.1990. Hence, the petitioner is entitled for the pension benefits from 24.12.1990. Therefore, the petitioner's service can be counted from the said date of passing of S.S.L.C., examination.

7.It is not shown to the Court that the petitioner had been in service in any other capacity from the date of coming into the force of the Act. The Judgment made in W.A.(MD).Nos.1629 of 2018 and batch, in ***The State of Tamil Nadu and Ors., Vs. E.Balachandran and Ors.,*** has been produced by the learned counsel, in support of his claim. In the said case, the petitioner has been in service even after 1983 as Talaiyari and hence, his services rendered before 01.04.2003 has been included for the pensionary benefits. But, in the instant case, the petitioner has not been in service



W.P.No.25562 of 2021

between the date of implementation of the Act, 2nd March 1981 and from the date of appointment on 24.12.1990. As per the above said Judgment, the petitioner is entitled to receive the retirement benefits only for the period from when he was working as Village Administrative Officer in the year 1990 to till his date of retirement on 31.07.1999. For a better clarity, the relevant paragraph No.20 of the said Judgment is extracted hereunder:-

“20.Much reliance has been made to Rule 11(a) read with Rule 2(o) of the Tamil Nadu Pension Rules, 1978. These Rules are not applicable to the services of Talaiyaris, being in non-pensionable establishment and part-time and that too not in a cadre post. As per Rule 11(4), there must be whole-time employment. Similarly, there shall not be any break, which is in existence. Insofar as the other set of employees are concerned, viz., Village Officers (Karnams), we may appropriately quote Rule 16 of the Tamil Nadu Village Servants Service Rules, 1980. Even as per Rule 16 of the said Rules, the post of Talaiyari being-non pensionable, they are not entitled.”

8.With the above observations and directions, the Writ Petition is dismissed. No costs.

06.11.2023

Index : Yes/No
Speaking / Non-Speaking order
Neutral Citation : Yes/No



W.P.No.25562 of 2021

klt

WEB COPY

To:

- 1.The Secretary to Government,
State of Tamil Nadu,
Finance (Pension) Department,
Secretariat,
Chennai – 600 009.
- 2.The Secretary to Government,
Revenue Department,
Secretariat,
Chennai – 600 009.
- 3.The District Collector,
Namakkal District.
Namakkal.
- 4.The Revenue Divisional Officer,
Tiruchengode,
Namakkal District.
- 5.The Tahsildar,
Tiruchengode Taluk,
Tiruchengode.
- 6.The Principal Accountant General,
(Accounts and Establishment),
Tamil Nadu,
No.361, Anna Salai,
Teynampet,
Chennai – 600 018.



WEB COPY



W.P.No.25562 of 2021

R.N. MANJULA, J.

klt

W.P.No.25562 of 2021

06.11.2023