



W.P.No.30644 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.30644 of 2022

Rajamma

...Petitioner

-Vs-

- 1.The Secretary to Government,
Department of Personnel, Pension
and Grievances,
Fort St. George, Chennai - 600 009.
- 2.The Commissioner of Revenue
Administration,
Chepauk, Chennai.
- 3.The Accounts Officer,
Office of the Principal Accountant General
(Accounts and Entitlement),
Tamil Nadu, Chennai.
- 4.The District Collector,
Krishnagiri - 635 001.
- 5.The Sub Collector,
Hosur Sub Division,
Hosur - 635 109.
- 6.The Tahsildar,
Denkanikottai - 635 107.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the sixth respondent relating to rejection order PA.MU.3965/2020/B1 dated 24.06.2022 and quash the same and consequently to grant pension from the date of the petitioner's husband retirement i.e. with effect from 30.06.2004 and grant family pension to the petitioner after the date of his demise, i.e. with effect from 14.06.2006.

For Petitioner : Mr.T.Saikrishnan

For Respondents : Mr.P.Gurunathan,
Additional Government Pleader

ORDER

With the consent of both the parties, this Writ Petition is taken up for final disposal.

2. The issue involved in the present Writ Petition is as to whether the services of the petitioner prior to 01.06.1995, could be counted for the purpose of calculating the pensionary benefits.



3. The petitioner herein has been serving on consolidated basis prior to 01.06.1995 and by G.O.Ms.No.625, dated 06.07.1995, his services as Village Assistant came to be regularized with effect from 01.06.1995. The entitlement of the petitioner to have his services counted prior to 01.06.1995 came to be challenged up to the Hon'ble Supreme Court and ultimately, it was held that such services could be taken into account for the purpose of calculation of pension. When such benefits were not extended to the petitioner, the present Writ Petition came to be filed before this Court and this Court, in various similar Writ Petitions, had placed reliance on Rule 11(4) of the Tamil Nadu Pension Rules and had been consistently directing the Government to take into account half of the services rendered by the petitioners in non-provincialised services on consolidated pay, for the purpose of calculation of retirement benefits. In one such order passed in W.A.(MD) No.370 of 2019 dated 22.10.2019, the Hon'ble Division Bench of this Court had held as follows:

"17..... In such circumstances, this Court is of the view that there is no scope for reference to a larger Bench and that the order impugned in W.P.(MD) No.70 of 2019 is set aside. 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."

4. In view of the consistent stand taken by the Hon'ble Division Bench of this Court in identical cases, I am unable to take any contrary view. Furthermore, this Court is also of the view that 50% of the past services of the petitioner till 01.06.1995 could be taken into account for the purpose of calculation of pensionary benefits.

5. Earlier, when the petitioner herein had filed a Writ Petition in W.P.No.16325 of 2020, seeking for consideration of his representation in this regard, the District Collector of Krishnagiri District had filed a counter affidavit dated 17.02.2021 and in paragraph 2 of the counter, they had admitted that the petitioner's husband had joined as Part-Time Village Servant in the year 1974 onwards.



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6. In the light of the above observations, the order impugned in the present Writ Petition dated 24.06.2022 is quashed. Consequently, the first respondent herein is directed to consider the petitioner's representation and pass positive orders counting 50% of his services from the date of initial appointment, along with regular services rendered by him as Village Assistant. Thereafter, the first respondent herein shall send the revised pension proposal to the third respondent herein, atleast within a period of eight weeks from the date of receipt of a copy of this order, who in turn shall consider the same as expeditiously as possible, in any event, within a period of four weeks therefrom. The petitioner is also called upon to give a copy of his representation, which is claimed to have been already sent to the first respondent herein, along with a copy of this order.

7. With the above directions, the Writ Petition stands allowed. No costs.

23.06.2023

Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

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WEB COPY

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M.S.RAMESH,J.

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