



W.P.(MD)No.870 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:12.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.870 of 2023

M.Karunanithi

... Petitioner

Vs.

1.The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai – 600 009.

2.The Commissioner for Revenue Administration,
Chepauk,
Chennai – 600 005.

3.The District Collector,
Thanjavur District,
Thanjavur.

4.The Accountant General of Tamil Nadu,
Teynampet,
Chennai – 600 018.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to count half of services rendered by the petitioner as Village Karnam from 03.05.1970 to 14.11.1980 and accordingly count that services as qualifying service for the purpose of pensionary benefits and revise the



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pension and pensionary benefits and pay the arrears within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.P.Saravanakumar
For R-1 to R-3 : Mr.C.Satheesh,
Government Advocate
For R-4 : Mrs.S.Mahalakshmi

ORDER

This writ petition has been filed for a direction to the respondents to count half of services rendered by the petitioner as Village Karnam from 03.05.1970 to 14.11.1980 and accordingly, count that services as qualifying service for the purpose of pensionary benefits and revise the pension and pensionary benefits and pay the arrears, within a stipulated period.

2. The case of the petitioner is that the petitioner was initially appointed as Village Karnam and continued in service till 14.11.1980. Consequent to the abolition of the post of Village Karnam, he was terminated from service and he was reappointed as Village Administrative Officer and subsequently, his services were regularized



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and he retired from service in the year 2003. The grievance of the petitioner is that the petitioner has served as Part time Village Officer from 03.05.1970 to 14.11.1980 and therefore, 50% of service rendered by the petitioner as Village Officer/Karnam, has to be taken into account as qualifying service for the purpose of pensionary benefits. In this regard, the petitioner has made a representation on 29.10.2021 and on 10.11.2021, to the third respondent. Since no order was passed, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that it would suffice if the third respondent is directed to consider the representation of the petitioner dated 29.10.2021 and 10.11.2021, within a stipulated period.

4. The learned counsel appearing for the fourth respondent would submit that the issue raised in this writ petition is no longer *res integra* in view of the decision of a Division Bench of this Court in ***State of Tamil Nadu and another v. E.Balachandran*** reported in ***2021 (3) MLJ 92*** and prays for dismissal of this writ petition.



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5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. Admittedly, the petitioner has served as Part time Village Officer from 03.05.1970 to 14.11.1980. If the petitioner rendered pensionable service, definitely he is entitled to claim 50% of service to be taken into account as qualifying service. However, the petitioner was doing part-time job at the relevant period, which is non-pensionable service and hence, no affirmative direction can be given.

7. As rightly stated by the learned counsel appearing for the fourth respondent, the issue raised in these writ petitions is no longer *res integra*, in view of the decision of the Division Bench of this Court in ***State of Tamil Nadu and another v. E.Balachandran***. Relevant portion of the said decision reads as follows:

“23.Learned counsel appearing for the respondents/writ petitioners made reliance upon the decision rendered in Writ Appeal (MD) Nos.1254 and 1255 of 2019 dated 19.11.2019 in the matter of the State of Tamil Nadu, rep. by its



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Secretary, Department of Revenue v. Chinna Karuppaiah. We are afraid that the said decision will not enable the respondents from getting the relief. As aforesaid, the relevant Rules were not brought to the notice of the Court and Rule 16 of the Tamil Nadu Village Servants Service Rules, 1980, speaks about the status of the erstwhile Village Assistants and Village Officers such as Talaiyari and Karnams. Insofar as Talaiyaris are concerned, the part-time posts were sought to be abolished by fixing fixed compensation for the said work done and thereafter, a concession was given by bringing them under regular time scale of pay. The Government Orders concerned, which we discussed, followed by the Rules framed for the aforesaid purpose was not brought to the notice of the Court. We may note at the cost of repetition, but for the Government Order passed on 06.07.1995, the respondents Talaiyaris would have continued to have the status of part-time employees only. Therefore, it is not open to them to consider even from the inception that they were full-time employees, when there was no regular full-time scale of pay on a cadre basis.”

8. Applying the ratio laid down in the decision cited above, this writ petition cannot be entertained and the same is liable to be dismissed.



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9. In the result, this writ petition is dismissed. No Costs.

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PM

NCC:Yes/No

Index:Yes/No

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M.DHANDAPANI, J.

pm

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