



W.A.(MD).No.72 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.10.2023

CORAM

**THE HON'BLE MR JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD).No.72 of 2019
and
C.M.P.(MD).No.423 of 2019

1.The Secretary to Government,
Government of Tamil Nadu,
Fort St.George,
Chennai.

2.The Commissioner,
Revenue Administration,
Chepauk,
Chennai.

3.The District Collector,
Collectorate Building,
Virudhunagar,
Virudhunagar District.

.. Appellants/Respondents

Vs.

1.A.Nagalingam

2.N.Krishna Ramanujam

3.S.Balakrishnan



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4.Sri Renganathan

5.A.Seeniammal

(R-5 is substituted for the deceased second respondent vide Court order dated 13.04.2016 in M.P.(MD).No.1 of 2015)

6.Pandithai

..Respondents/Petitioners

(R-6 is substituted for the deceased fourth respondent vide Court order dated 13.04.2016 in M.P.(MD).No.2 of 2015)

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 21.12.2017 made in W.P.(MD).No.13204 of 2014 on the file of this Court and allow this Writ Appeal.

For Appellants : Mr.N.Sathish Kumar
Additional Government Pleader

For R-3, R-5 & R-6: M/s.P.Malini

JUDGMENT

(Judgment of the Court was delivered by S.M.SUBRAMANIAM,J.)

The Writ Appeal on hand has been instituted challenging the order dated 21.12.2017 passed in W.P.(MD).No.13204 of 2014.



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2. The learned Additional Government Pleader appearing on behalf of the appellants mainly contended that the respondents 1 to 4 were initially appointed as Village Karnam and the post of Village Karnam was abolished by the Government. The eligible erstwhile Village Karnams were re-appointed as Village Administrative Officers and they retired from service. In respect of pension and pensionary benefits, the Government issued orders relaxing the relevant Pension Rules and extended the benefits. The benefit of family pension was also subsequently extended to the spouses of the deceased employees.

3. In the present case, the writ petitioners had admittedly served as Village Karnams and after abolition of the post, they were re-appointed as Village Administrative Officers. The Writ Petition was filed seeking pension from the date of retirement. The Government Order issued restricting the pensionary benefits of the erstwhile Village Karnams, was under challenge in the writ proceedings. The learned Single Judge considered the issues in favour of the writ petitioners and directed the authorities to sanction revised pension to the writ petitioners as retired Village Administrative Officers from their respective date of retirement.



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4. The erstwhile Village Karnams on their re-appointment as Village Administrative Officers, who had not completed minimum qualifying service of ten years under the Pension Rules, were also extended the benefit of pension by relaxing the relevant Pension Rules. That being a concession extended by the Government in favour of the erstwhile Village Karnams, who were re-appointed as Village Administrative Officers, the Court cannot confer or extend further concession in the matter of grant of pensionary benefits. The Pension Rules applicable itself was relaxed. Further relaxation of rules are impermissible and the power of judicial review cannot be extended for the purpose of relaxation of Pension Rules, which would result in opening of pandora's box.

5. That apart, the issues raised in the present Writ Petition are no more *res integra* and the Hon'ble Division Bench of this Court, in a batch of Writ Appeals, elaborately considered the scope of the Government Order and the eligibility of the erstwhile Village Karnams on their re-appointment as Village Administrative Officers and for availing the benefit of pension and pensionary benefits. The judgment was delivered on 26.02.2021 in W.A.



(MD).Nos.1629 of 2018 etc., batch and the relevant portion of the judgment

reads as follows:

“18.We have already took note of the relevant Rules. A perusal of the Tamil Nadu Village Servants Conduct Rules, 1983, clearly states the status and position of Writ Petitioners. Certainly, they come under the definition 'Village Assistants'. However, Rule 3, which facilitate a Village Servant to take job of part-time work or occupation, makes it abundantly clear that he is only a parttime Government Servant. Similarly, Rule 14 of Tamil Nadu Village Servants Service Rules, 1980, which gives a succour to a part-time Government servant, as that of the respondents, gives a specific compensation. A conjoint reading of the aforesaid Rules would show that a Village Servant/Assistant was having a part- time service alone.

...26.Having considered the entire issues involved, we also find that there is no application of Article 14 of the Constitution of India by comparing the respondents with those who got the relief albeit without taking note of the relevant provisions of law. Granting the relief would amount to setting aside two pension Rules without even a challenge especially when the respondents got the benefit of regular employment and permanent posts under the subsequent orders passed, on their request.



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27.In the result, the appeals filed by the Government of Tamil Nadu stand allowed by setting aside the orders passed by the learned Single Judge and consequently, the appeal filed by the Writ Petitioner in W.A.(MD) No.831 of 2020 stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.”

6. The order under challenge before us is running counter to the principles settled by the Division Bench of this Court in the judgment cited supra. Thus, we are inclined to consider the Writ Appeal. Accordingly, the order dated 21.12.2017 passed in W.P.(MD).No.13204 of 2014 is set aside and the Writ Appeal stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

(S.M.S.,J.) (V.L.N.,J.)
05.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm



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