



W.P.(MD)No.22106 of 2015

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.22106 of 2015

V.A. Karumoonji (Deceased)*

Palaniammal *

...Petitioner

*(Petitioner is substituted vide Court order dated
03.07.2023 in W.M.P(MD)No.5700 of 2021)

Vs.

1.The Principal Secretary cum Commissioner of
Revenue Administration,
Chapauck,
Chennai – 5.

2.The District Collector,
Dindigul (DT),
Dindigul.



W.P.(MD)No.22106 of 2015

3.The Revenue Divisional Officer,
Dindigul (DT),
Dindigul.

4.The Tahsildar,
Natham Taluk Office,
Dindigul (DT).

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the second respondent in his proceedings Na.Ka.No.5794/2014/B1 dated 21.03.2014 and quash the same and consequently directed the second respondent to disburse the pension to the petitioner from 30.11.1998 and as on date and continue to pay the monthly pension to the petitioner.

For Petitioner : Mr.G.Gomathi Sankar

For Respondents : Mr.P.Subbaraj,
Special Government Pleader



W.P.(MD)No.22106 of 2015

WEB COPY

ORDER

Heard, Mr.G.Gomathi Sankar, learned counsel for the petitioner, Mr.P.Subbaraj, learned Special Government Pleader appearing for the respondents and perused the materials available records.

2. The case of the petitioner is that the petitioner was appointed as Vettiyan in Pudur Village by the fourth respondent vide proceedings in Na.Ka.No.A3/10241/04, dated 10.09.1964 and subsequently, he was appointed as permanent Vettiyan in the same Village by the fourth respondent on 10.09.1974. His service was regularised with effect from 06.07.1995 and he was retired from service on 30.11.1998 on attaining superannuation. The petitioner made representation to the second respondent seeking pensionary benefits. As it was not considered, he filed a Writ Petition in W.P. (MD)No.690 of 2014 before this Court and the same was disposed of by this Court with a direction to the second respondent to



W.P.(MD)No.22106 of 2015

WEB COPY

consider his representation and pass appropriate orders. In compliance of the same, the second respondent passed the order impugned in this Writ Petition. Aggrieved by the said order, the present Writ Petition is filed.

3. The learned counsel for the petitioner would submit that the petitioner's service was regularised with effect from 06.07.1995 and in the light of the G.O.Ms.No.408 Finance (Pension) Department, dated 25.08.2009, the respondents have to consider 50% of the total period of service of the petitioner prior to his regularisation to be counted for granting pensionary benefits.

4. The learned counsel would further submit that the second respondent without looking into the said Government Order has rejected the claim of the petitioner without non-application of mind and sought to allow the Writ Petition.



W.P.(MD)No.22106 of 2015

WEB COPY

5. On behalf of the respondents, counter affidavit has been filed, wherein, it is averred that the part time services of the Village basic services namely, Thalayaries, Vettians were brought to full time service with regular time scale of pay with effect from 01.06.1995 as per G.O.Ms.No.625 Revenue Department, dated 06.07.1995 only and as such the petitioner rendered service for a period of three years six months only as full time employee as Village Assistant and as such, he is not eligible for pension, as he has not rendered minimum qualifying service of 10 years as per Rule 7(1) of Tamil Nadu Village Assistant Pension Rules, 1995.

6. The learned Special Government Pleader appearing for the respondents submitted that the petitioner is not eligible for pension as he has not rendered minimum qualifying service of 10 years in the regular post and the provisions narrated in G.O.Ms.No. 480 Finance (Pension) Department, dated 25.08.2009 is not applicable to the petitioner since he was employed as part time employee as Vettian prior to regularisation. Accordingly, learned



W.P.(MD)No.22106 of 2015

WEB COPY

Special Government Pleader contended that the petitioner did not deserve any consideration and sought to dismiss the Writ Petition.

7. Having heard the submissions of the respective counsels and upon perusal of the materials available on record, the appointment of the petitioner as Vettiyan and regularisation of his service with effect from 06.07.1995 is not in dispute.

8. Now the issue to be considered is whether the petitioner's service rendered as Vettiyan, prior to his regularisation i.e., 06.07.1995 has to be taken into account for calculating the pensionary benefits or not.

9. As per G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009, the Government made it clear that the Government servants served on the basis of non-provincialised service, consolidated pay, honorarium and daily wages regularised as permanent before 01.04.2003 and benefiting all the above persons



W.P.(MD)No.22106 of 2015

WEB COPY

and the Government servants appointed after 01.01.1961 non-provincialised service, consolidated pay, honorarium and daily wages and half of the total period of service has to be taken for the eligibility of pension and the orders issued by the Government subject to certain conditions.

10. On careful perusal of the conditions mentioned in the said Government Order, this Court has no hesitation to hold that the petitioner is entitled for the benefits confirmed by the State Government under this Government Order to the Government servants whose service are regularised before 01.04.2003. In the present case, the petitioner is satisfying the two requirements mentioned in this Government Order. He was appointed on 10.09.1964 and service was regularised on 06.07.1995. In the said G.O.Ms.No.408 dated 25.08.2009, the intention of the Government is to give benefit to the Government servants appointed after 01.01.1961 and who regularised before 01.04.2003. The petitioner satisfied these two conditions.



W.P.(MD)No.22106 of 2015

WEB COPY

11. In the order of the Supreme Court relied upon by the learned Special Government Pleader also it is made it clear that in case the regularisation in the instant case, it is observed as extracted herein under :

" In case the regularisation in the instant case had occurred before 01.04.2003, the petitioner shall be entitled to take appropriate proceedings as are open to them in law."

12. On careful perusal of the same, it appears that the Hon'ble Apex Court also accepted that if regularisation of the service of the petitioner therein had occurred before 01.04.2003, he is entitled for the benefits.

13. For the reasons stated above, this Court is not accepting the contentions of the respondents in rejecting the claim of



W.P.(MD)No.22106 of 2015

the petitioner. As such in our considered view, the order impugned in this Writ Petition is liable to be set aside.

14. Accordingly, this Writ Petition is allowed with the following directions :

1. The order impugned in this Writ Petition in Na.Ka.No.5794/2014/B1, dated 21.03.2014 issued by the second respondent is hereby set aside;

2. The second respondent shall fix the pension to the petitioner by counting 50% service rendered by him prior to his regularisation i.e., 06.07.1995 and pay pension along with arrears to the petitioner;

3. The second respondent shall complete the entire exercise within a period of four weeks from today and thereafter, within a



WEB COPY



W.P.(MD)No.22106 of 2015

period of four weeks he has to pay the arrears
and shall continue to pay the pension thereafter;

4. No costs.

23.08.2023

Index : Yes / No

Internet : Yes

NCC : Yes / No

RM



W.P.(MD)No.22106 of 2015

WEB COPY

To

1. The Principal Secretary cum Commissioner of
Revenue Administration,
Chapauck,
Chennai – 5.
2. The District Collector,
Dindigul (DT),
Dindigul.
3. The Revenue Divisional Officer,
Dindigul (DT),
Dindigul.
4. The Tahsildar,
Natham Taluk Office,
Dindigul (DT).



WEB COPY



W.P.(MD)No.22106 of 2015

BATTU DEVANAND, J.

RM

W.P.(MD)No.22106 of 2015

23.08.2023