



W.P.(MD).No.16400 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.16400 of 2019

A.Veldurai

... Petitioner

Vs.

1.The Principal Accountant General (A&E),
No.261, Anna Salai,
Chennai – 18.

2.The Block Development Officer,
Panchayat Union,
Kuruvikulam,
Tirunelveli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to adhere and conclude the pension proceedings in ந.க.எண்.ஆ.5/193/2017 dated 05.10.2018 which was forwarded by the second respondent along with the petitioner petition to calculate his pension and other benefits including his part time writer service period i.e., from 18.12.1978 to 31.08.1989 by counting half of the service rendered as Part Time Writer as per G.O.Ms.No.39, Rural Development and Panchayat Raj Department, dated 13.06.2011 within a time stipulated by this Court.



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For Petitioner : Mr.K.P.Sankara Kumarakuruparan

For R-1 : Mr.P.Gunasekaran,
Standing Counsel.

For R-2 : Mr.C.M.Marichellia Prabhu

ORDER

This Writ Petition is filed for Mandamus, directing the first respondent to adhere and conclude the pension proceedings dated 05.10.2018 which was forwarded by the second respondent along with the petitioner's petition to calculate his pension and other benefits including his part time writer service period i.e., from 18.12.1978 to 31.08.1989 by counting half of the service rendered as Part Time Writer as per G.O.Ms.No.39, Rural Development and Panchayat Raj Department, dated 13.06.2011.

2. The petitioner was admittedly joined as a Part Time Writer in Veerasigamani Panchayat, Sankarakovil Panchayat Union on 18.12.1978. Thereafter, he was promoted as Assistant Block Development Officer and attained superannuation in the year 2017. The petitioner has received the entire terminal benefits and retirement benefits. However, in the process of calculating the service, the respondents have calculated the service period only



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from 1989 onwards. The respondents did not consider the petitioner's service as Part Time Writer service for the period from 18.12.1978 to 31.08.1989. The contention of the petitioner is that the Government has issued G.O.Ms.No.39, Rural Development and Panchayat Raj Department, dated 13.06.2011, wherein, the Government has granted the benefits of calculating 50% of the past service even though it is Part Time service. Therefore, the petitioner is praying to direct the respondents to grant the same by calculating the past service of the Writ Petitioner.

3. However, the learned counsel appearing for the respondents especially the learned Counsel appearing for the first respondent submitted that admittedly, the Government issued G.O.Ms.No.39 dated 13.06.2011, which is totally against Rule 11(4) of the Tamil Nadu Pension Rules, hence the Accountant General had brought to the notice of the first respondent Government. After considering the mistake, the Government has cancelled the G.O.Ms.No.39 through G.O.Ms.No.77 Rural Development and Panchayat Raj Department dated 12.07.2013. Therefore, the claim of the petitioner cannot be entertained.



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4. The learned counsel for the petitioner further submitted that some of the Panchayat Secretaries were granted the benefits and the Government also issued G.O.Ms.No..99 dated 27.08.2022. On perusing the said G.O.Ms.No.99, it is seen that it is passed based on the orders of the Court. Admittedly, some of the petitioners who had served as Panchayat Secretaries were given relief to add the part time service of the said Panchayat Secretary. However, this Court is not accepting this argument, since any Government Orders cannot be passed nullifying the Rule or against Rule. If passed then the Rule will prevail over the Government Orders. Therefore, this Court is of the considered opinion that the petitioner is not entitled to.

5. Having said so, this Court is also directing the Government to take a policy decision in this issue. Since the Government cannot grant relief to some persons and deny the same relief to others, since it would amount to discriminatory. Therefore, the Government can contemplate for granting some compensation to the said period so that uniformity can be followed.



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6. With the above observations, this Writ Petition is dismissed. No costs.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

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Nsr

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