



W.P(MD).Nos.5731 and 5732 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:09.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD).Nos.5731 and 5732 of 2018
W.M.P(MD).Nos.5618 and 5619 of 2018

M.Vellaiyan ... Petitioner in W.P(MD).No.5731 of 2018
N.Alagu ... Petitioner in W.P(MD).No.5732 of 2018

Vs.

- 1.The State of Tamil Nadu
Rep.by its Secretary,
Revenue Department,
St.George Fort,
Chennai-600 009.
- 2.The District Collector,
Madurai District,
Madurai Collectorate,
Madurai-20.
- 3.The Tahsildar,
Madurai North Taluk,
North Taluk Office,
Madurai-625 020.

... Respondents



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Prayer in W.P(MD).No.5731 of 2018 :Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order passed by the second respondent in his proceedings in Na.Ka.No.23541/17/G1, dated 09.06.2017 and quash the same as illegal and consequently, direct the respondents to refix his pension by considering his entire period of service i.e., from 17.09.1981 to 31.07.2014, on par with the various judgments made by this Court and further direct the respondents to sanction his full pensionary benefits to him within the time fixed by this Court.

Prayer in W.P(MD).No.5732 of 2018 :Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order passed by the second respondent in his proceedings in Oo.Mu.No.48149/17/G1 dated 12.12.2017 and quash the same as illegal and consequently, direct the respondents to refix his pension by considering his entire period of service (i.e.,) from 01.10.1973 to 30.03.2012, on par with the various judgments made by this Court and further direct the respondents to sanction his full pensionary benefits to him within the time fixed by this Court.



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In both petitions

For Petitioner : Mr.C.Kishore
For Respondents : Mr.G.V.Vairom Santhosh
Additional Government Pleader

COMMON ORDER

Since the issues arising in the present writ petitions are one and the same, they are disposed of by way of this common order.

2. These Writ Petitions have been filed to call for the records pertaining to the impugned orders passed by the second respondent, quash the same and direct the respondents to re-fix the pension of the petitioners by considering their entire period of service on par with the various judgments made by this Court and to sanction full pensionary benefits to them within the time fixed by this Court.

3. The case of the petitioners is that the petitioners have been initially appointed as Vetti on permanent basis and though their appointments were on permanent basis, the respondents claim that the



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appointments were on part time basis. The service of the petitioners was regularized, pursuant to G.O.Ms.No.625, Revenue Department dated 06.07.1995, with effect from 01.06.1995. Thereafter, the pension was sanctioned to the petitioners from the date of regularization of their appointment to the date of retirement. However, they are entitled to get the pension from the date of their initial appointment to the date of retirement. After retirement, the petitioners made representations to the concerned respondent to re-fix their pension by calculating their entire period of service from the date of initial appointment till the date of retirement. The second respondent, without considering the above factual aspects, has passed the impugned orders stating that the initial appointment of the petitioners was on part time basis and since as per the said Government order, their services were regularized, the claim of re-fixation of pension cannot be entertained. Challenging the same, the present Writ Petitions have been filed.

4. The learned Additional Government Pleader appearing for the respondents would submit that the post of Vetti is only a part time job



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and it was not a pensionable service until 1995. Their services were brought under regular employment as per G.O(Ms).No.625, Revenue Department dated 06.07.1995 and hence, the services rendered by the petitioners from the date of initial appointment could not be counted for pensionary benefits. Further, he would submit that 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.***

5. As rightly stated by the learned Additional Government Pleader appearing for the respondents, 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.”

6. Applying the ratio laid down in the decision cited above, these writ petitions cannot be entertained and the same is liable to be



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dismissed.

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7. In the result, these writ petitions are dismissed. No Costs.

Consequently, connected miscellaneous petitions are closed.

09.02.2023

ssb

NCC:Yes/No

Index:Yes/No

Internet:Yes/No

To:

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Rep.by its Secretary,
Revenue Department,
St.George Fort,
Chennai-600 009.

2.The District Collector,
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Madurai Collectorate,
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3.The Tahsildar,
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M.DHANDAPANI,J.

ssb

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