



W.P(MD).Nos.5797 and 5993 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.5797 and 5993 of 2018

Veerapathran ... Petitioner in W.P(MD).No.5797 of 2018

S.Pandiyar ... Petitioner in W.P(MD).No.5993 of 2018

Vs.

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

2.The Secretary to the Government,
Finance Department,
St.George Fort,
Chennai-600 009.

3.The District Collector,
Virudhunagar District,
Virudhunagar.

4.The Tahsildar,
Srivilliputhur Taluk,
Virudhunagar District.

... Respondents in both petitions



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Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to count the service of the petitioners rendered as Thalayari prior to 01.06.1995 along with regular service for the purpose of pension and also direct the respondents to revise the pension of the petitioners based on the representations dated 05.12.2017 preferred by the petitioners.

In both petitions

For Petitioners : Mr.V.P.Rajan

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 direct the respondents to count the service of the petitioners rendered as Thalayari prior to 01.06.1995 along with regular service for the purpose of pension and to revise the pension of the petitioners based on the representations dated



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05.12.2017 preferred by the petitioners.

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2. The case of the petitioners is that the petitioners were initially appointed as Thalayaris on permanent basis. The Government, vide G.O.Ms.No.625, Revenue Department dated 06.07.1995, appointed the permanent, part time Thalaiyari as regular employee and the post of Thalaiyari was re-designated as Village Assistant. Thereafter, the petitioners retired from service. While so, the fourth respondent, while sending the pension proposals, has calculated the service rendered in the post of Village Assistant from 1995. However, the service rendered before 1995 was not taken into consideration. It is pertinent to point out that the Village Assistant, who approached this Court, was given the pensionary benefit in respect of service rendered prior to 1995. Hence, the petitioners have given the representations dated 05.12.2017 to the respondents. However, no action was taken. Hence, the present Writ Petitions have been filed.



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3. The learned Additional Government Pleader appearing for the respondents would submit that the post of Village Assistant is only a part time job. The service of the petitioners was brought under regular employment as per G.O(Ms).No.625, Revenue Department dated 06.07.1995 and hence, the service rendered by the petitioners prior to 01.06.1995 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***.

4. 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



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19.11.2019 in the matter of the State of Tamil Nadu, rep. by its 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.”



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

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

09.02.2023

ssb
NCC:Yes/No
Index:Yes/No
Internet:Yes/No



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M.DHANDAPANI,J.

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