



W.P.(MD).Nos.11429 and 17323 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).Nos.11429 and 17323 of 2014
and
M.P.(MD).No.1 and 2014**

W.P.(MD).No.11429 of 2014:

P.Balasubramanian (Died)

B.Govinthammal

... Petitioner

*(Petitioner substituted vide Court Order dated 16.10.2020 made in W.M.P.
(MD).No.14726 of 2019 in W.P.(MD).No.11429 of 2014)*

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of Rural Development,
Fort St.George, Chennai – 600 009.

2.The Director of Rural Development,
and Panchayat Raj,
Panagal Building,
No.151, Jennis Road,
Saidapet,
Chennai – 600 015.



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3. The Commissioner,
Panchayat Union,
Virudhunagar,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the second respondent herein in Rc. No. 58685/2013/E1 dated 18.06.2014 quash the same and further direct the respondents herein sanction and disburse forthwith the remaining pension benefits and arrears from 31.10.2004 by including the petitioner's service from 01.06.1979 to 30.09.1984 in the light of the Orders of this Court dated 19.04.2006 in WP Nos. 30003, 30750 etc of 2002 and in Writ Petitions Nos. 8464 and 8469 of 2009 dated 02.09.2010 and WA Nos.198 and 1098 of 2012 dated 21.01.2013.

For Petitioner : Mr.E.V.N.Siva

For Respondents : Mr.M.Lingadurai,
Special Government Pleader.

W.P.(MD).No.17323 of 2014:

K.Sivaraman

... Petitioner

Vs.



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1. The Government of Tamil Nadu,
Represented by its Secretary to Government,
Rural Development Department,
Fort St.George, Secretariat,
Chennai – 600 009.
2. The Director of Rural Development,
No.15, Jennis Road,
Panagal Building,
Saidapet,
Chennai.
3. The Assistant Director,
Panchayat Union Pension,
Local Fund Audit,
Kuralagam, 4th Floor,
Chennai – 600 108.
4. The Commissioner,
Marungapuri Panchayat Union,
Trichy District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the third respondent in Na.Ka.No.4650/Vu.O.O.Sa.(4)2014, dated 11.7.2014 , quash the same and consequently direct the respondents to calculate pension and other benefits by taking into account 50% of service of the petitioner from 21.5.1977 to 30.09.1984 in accordance with G.O.Ms.No.408, Finance (Pension) Department dated 25.8.2009 and pay the same in a time bound manner.



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For Petitioner : Mr.S.Ramesh

For Respondents : Mr.M.Lingadurai,
Special Government Pleader.

COMMON ORDER

The relief sought for by the petitioners in these Writ Petitions are one and the same. Hence, a common order is passed. Heard Mr.E.V.N.Siva, the Learned Counsel appearing for the petitioner in W.P.(MD).No.11429 of 2014 and Mr.S.Ramesh, the Learned Counsel appearing for the petitioner in W.P.(MD).No.17323 of 2014 and Mr.M.Lingadurai, Special Government Pleader for the respondents in both the writ petitions and perused the records.

2. The Writ Petition in W.P.(MD).No.11429 of 2014 is filed by P.Balasubramanian (died) to quash the order dated 18.06.2014 and further direct the respondents herein sanction and disburse forthwith the remaining pension benefits and arrears from 31.10.2004 by including the petitioner's service from 01.06.1979 to 30.09.1984 in the light of the Orders of this Court dated 19.04.2006 in WP Nos. 30003, 30750 etc. of 2002 and in Writ Petitions Nos. 8464 and 8469 of 2009 dated 02.09.2010 and WA Nos.198 and 1098 of 2012 dated 21.01.2013.



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3. The Writ Petition in W.P.(MD).No.17323 of 2014 is filed by K.Sivaraman to quash the order dated 11.7.2014 and consequently direct the respondents to calculate pension and other benefits by taking into account 50% of service of the petitioner from 21.5.1977 to 30.9.1984 in accordance with G.O.Ms.No.408, Finance (Pension) Department dated 25.8.2009 and pay the same in a time bound manner.

4. The petitioner namely, P.Balasubramanian was appointed as Rural Medical Officer by the fourth respondent vide proceedings dated 30.05.1975 and joined the service on 01.06.1979 and finally attained superannuation on 31.10.2004. Similarly, the petitioner namely, K.Sivaraman was appointed as Rural Medical Officer on 21.05.1977 and retired from service on 31.05.2002. The Rural Medical Officers approached this Court to grant time scale of pay. Based on the orders of the Court, the respondents have issued G.O.Ms.No.16 Rural Development Department dated 29.01.1998 granting time scale of pay with effect from 01.10.1984. However, later on, the State Government issued G.O.Ms.No.250 Rural Development Department dated 14.09.2000 denying the service benefits to the Rural Medical Officers. Again, the said officers challenged the said Government Order before this Court. Finally, the Hon'ble



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Division Bench vide order dated 19.04.2006 in Writ Petitions Nos.30003, 30750 of 2002 etc. batch held that G.O.Ms.No.250 is invalid, insofar as it denies the service benefits to the Rural Medical Officers. The Hon'ble Court further held that the petitioners therein are entitled to pension and other service benefits. Based on this order, similarly placed persons who were serving as Rural Medical Officers filed various Writ Petitions and the same was allowed by this Court.

5. The contention of the petitioners is that after attaining superannuation, the service benefits were disbursed by the respondents by taking into service from 01.10.1984 in the light of G.O.Ms.No.16 (Rural Development Department) dated 29.01.1998. The other service benefits, revised salary and revised pension from the date of appointment that is 01.06.1979 were not disbursed. Hence, the petitioner namely, P.Balasubramanian submitted a representation dated 13.05.2013 followed by yet another representation dated 17.07.2013. Since the respondents have not responded and have not granted the benefits, he preferred Writ Petition in W.P.(MD).No.510 of 2014 and this Court vide order dated 09.01.2014 directed the second respondent to consider and pass orders. Thereafter, the second respondent passed an order dated



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18.06.2014 stating that the claim cannot be considered in the light of G.O.Ms.No.68 RD & PR Department dated 05.07.2013 and G.O.Ms.No.408 Finance Department dated 25.08.2009. Since the respondents have taken only the regular service but have not taken the prior service, the petitioners are before this Court.

6. The contention of the petitioners is that in the impugned order the respondents have stated that 50% of prior service was also taken but it is factually incorrect. The respondents have filed 2 counters. In the first counter dated 17.11.2014, the third respondent has stated as follows:

*“13. It is submitted that with reference to the averments made in the Grounds 'e' to 'h' of the affidavit, it is submitted that The Director of Local Fund Audit has sanctioned pensionary benefits eligible to the petitioner as per the rules calculating his regular service from 01.10.1984 to 31.10.2004, **the part-time service from 01.06.1979 to 30.09.1984 could not be taken for pensionary benefits.** All retirement benefits eligible to the petitioner was disbursed to him. There is no violation of Article 14 and 16 of the Constitution of India”.*

7. However, in the second counter, the respondents have taken diagonally opposite stand and has said 50% was already taken and disbursed. But in the same para, it is stated that the same cannot be considered in the light of



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G.O.Ms.No.68. In the second counter, the respondents have taken inconsistent stand.

8. The learned counsel appearing for the petitioner submitted that it has a long history. Earlier, the petitioners were appointed as Rural Medical Officers and they were serving as per the guidelines. When the respondents have not treated them as a Government employee, the petitioners have to fight for their rights. Subsequently, they fought for regular time scale of pay. Thereafter, they fought for regularizing the service as a fulltime service. The Hon'ble Division Bench in the first case has held that the Rural Medical service is a fulltime job. Thereafter only it has directed the Government to grant time scale of pay. Based on the direction, the respondents have issued G.O.Ms.No.16 Rural Development Department dated 29.01.1998 fixing the time scale of pay. When the respondents have not filed SLP challenging the Writ Appeal order, once the respondents have accepted the findings of the Court, then it ought to be taken that the issue has been settled and the petitioners ought to be treated as fulltime employee.



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9. On perusing the Hon'ble Division Bench order, it is seen that the Hon'ble Division Bench has recorded that the petitioners are working from 7.30 a.m. to 10.30 a.m. and thereafter from 3.00 p.m. to 5.00 p.m., totally the petitioners are working only for 5 hours as per the guidelines. Any full time Government employee ought to render service atleast for 8 hours. Hence, it is difficult to accept that the petitioners are rendering full time job, but as a Single this Court cannot go beyond the said finding. Moreover, right from 2006 onwards, the litigations had ended up in favour of the petitioner. The Hon'ble Division Bench consistently has held in five cases, that the petitioners are rendering service as fulltime. The respondent Government has also taken the service as fulltime and has granted the time scale from 1984 onwards. Therefore, at this juncture, this Court cannot restrict or take a different view that the petitioners were serving only part time. Moreover, the petitioners are seeking to include 50% of their past service along with their regular service by invoking Rule 11(4) of the Tamil Nadu Pension Rules.

10. Therefore, this Court is allowing the Writ Petition and directing the respondents to include 50% of the past service and include the same along with the petitioners' regular service and grant pension. As far as the petitioner



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P.Balasubramanian (died) in W.P.(MD).No.11429 of 2014 is concerned, he is not entitled to monetary benefits from 1979 to 2014, but the monetary benefits shall be granted from the date of filing of this writ petition. As far as the petitioner K.Sivaraman in W.P.(MD).No.17323 of 2014 is concerned, he is not entitled to monetary benefits from 1977 to 2014, but the monetary benefits shall be granted from the date of filing of this writ petition. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

11. With the above direction, the Writ Petitions are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

08.06.2023

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



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To

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1. The Secretary,
The State of Tamil Nadu,
Department of Rural Development,
Fort St.George, Chennai – 600 009.
2. The Director of Rural Development,
and Panchayat Raj,
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Saidapet,
Chennai – 600 015.
3. The Commissioner,
Panchayat Union,
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4. The Assistant Director,
Panchayat Union Pension,
Local Fund Audit,
Kuralagam, 4th Floor,
Chennai – 600 108.
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S.SRIMATHY, J.

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