



W.P.(MD).Nos.3432 & 3441 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).Nos.3432 & 3441 of 2014

W.P(MD)No.3432 of 2014:

V.Narayanasamy (Died)

1.Sarojini

2.Chandramohan

3.Shanthi

... Petitioners

*(Petitioners 1 to 3 are substituted vide Court order,
dated 20.07.2021 in W.M.P(MD)No.3432 of 2014)*

Vs.

1.The Secretary to Government
of Tamil Nadu,
Revenue Department,
Fort.St.George,
Chennai-9.

2.The Commissioner for Revenue Administration,
Chepauk,
Chennai-5.



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3. The District Collector,
Virudhunagar District,
Virudhunagar.

4. The Accountant General of Tamil Nadu,
Teynampet,
Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to extend the benefit of G.O.Ms.No.408, Finance Department, dated 25.08.2009 to the petitioner and to count the petitioner's past service rendered in the post of Village Headman of Chinnavadi Village, Ondipulinaickanur Firka, Virudhunagar Taluk and District for the period from 01.01.1967 to 14.11.1980 as qualifying service under Rule-11 of Tamil Nadu Pension Rules, 1978 for the purpose of granting pension and consequently revise the petitioner's pension and pensionary benefits and pay the arrears in the revised pension and consequential monetary benefits within the time stipulated by this Court.

*(Prayer amended vide Court order dated 20.07.2021 in
M.P(MD)No.1 of 2014)*



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W.P(MD)No.3441 of 2014:

S.Srinivasan

... Petitioner

Vs.

- 1.The Secretary to Government
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Revenue Department,
Fort.St.George,
Chennai-9.
- 2.The Commissioner for Revenue Administration,
Chepauk,
Chennai-5.
- 3.The District Collector,
Virudhunagar District,
Virudhunagar.
- 4.The Accountant General of Tamil Nadu,
Teynampet,
Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to extend the benefit of G.O.Ms.No.408, Finance Department, dated 25.08.2009 to the petitioner and to count the petitioner's past service rendered in the post of Village Headman of Chinnakamanpatti Village, Sattur Taluk, Virudhunagar District for the period from 21.06.1963 to 14.11.1980 as qualifying service under Rule-11 of Tamil Nadu Pension Rules, 1978 and consequently revise the



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petitioner's pension benefits and pay arrears in the revised pension and consequential attendant monetary benefits to the petitioner.

For Petitioners : Mr.A.Rahul
(In both cases)

For R1-R3 : Mr.R.Sureshkumar
Additional Government Pleader
(In both cases)

For R4 : Mr.P.Gunasekaran
(In both cases)

ORDER

The writ petitions have been filed for adding the past service in the post of Village Headman as per G.O.Ms.No.408. The petitioners have served as Village Headman from 01.01.1967 to 14.11.1980 and 21.06.1963 to 14.11.1980 respectively. After abolition of the said post, they were taken into service as Village Assistant on consolidated pay from 01.01.1991 to 29.07.1998 and 01.01.1991 to 05.08.1995 respectively. Now, the petitioners are claiming to add the serve of Village Headman to Village Assistant post and grant pension.



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2. The Tamil Nadu Village Servants Conduct Rules, 1983 has stated that the Village Servants service is part-time service. Under Rule 3, taking note of the employment being a part-time, a concession has been given to facilitate taking up private trade or employment either as part-time work or employment, provided they do not interfere with their legitimate duties. The only caveat is the prior permission. The relevant portion of the said Rule is extracted hereunder:

“3. Private trade or employment. - The Village Servants being part-time Government servants, may take up part-time work or occupation:
Provided that -

(1) such part-time work or occupation shall not interfere with their legitimate duties as village servants; and (2) the previous permission, in writing, has been applied for and obtained from the Revenue Divisional Officer concerned if the work or occupation is confined to the charge village and from the District Collector concerned, if the work or occupation extends beyond the charge village.”

3. Thereafter the Talayaris demanded right from the inception of Tamil Nadu Village Servants Conduct Rules, 1980 to convert them as full time regular government servants. Hence a decision was taken by the Government to induct them as full-time employees by Government Order in G.O.(Ms) No.625,



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Revenue Department, dated 06.07.1995. As per the said Government Order, there is a change in status. This was followed by the Government Order in G.O. (3D) No.9, Revenue (Ser.7(1) Department, dated 28.02.2006, fixing the Family Pension and Death- cum- Retirement Gratuity to such of those persons. Thereafter they became a regular full-time Government servants. From the above facts it would be evident that the part time Talaiyaris were made full time Village Assistant from 1995 onwards and prior to the it they were under part time employment.

4. Since the said period from 01.01.1967 to 14.11.1980 and 21.06.1963 to 14.11.1980 respectively were rendered as part-time employment, the said service cannot be taken into account for granting pension. When the rule itself states it is only a part time service, the petitioners cannot claim to add such service along with the regular service.

5. The post Village Headman (Karnams, Talaiyaris, Village Assistant, Village Servant) are all one and the same. The issue was contested in several



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writ petitions and they were allowed in favour of the Village Headman. Aggrieved over the same, the Government has preferred writ appeals and the same were dismissed. Subsequently, the entire issue was settled by the Hon'ble Division Bench of this Court vide order dated 26.02.2021 in W.A.(MD)Nos. 1629 of 2018 batch in the case of the State of Tamil Nadu and others Vs E. Balachandran, where it has been held Village Headman service is only part-time and the relevant portion is extracted hereunder:

“18.We have already took note of the relevant Rules. A perusal of the Tamil Nadu Village Servants Conduct Rules, 1983, clearly states the status and position of Writ Petitioners. Certainly, they come under the definition 'Village Assistants'. However, Rule 3, which facilitate a Village Servant to take job of part-time work or occupation, makes it abundantly clear that he is only a part- time Government Servant. Similarly, Rule 14 of Tamil Nadu Village Servants Service Rules, 1980, which gives a succour to a part-time Government servant, as that of the respondents, gives a specific compensation. A conjoint reading of the aforesaid Rules would show that a Village Servant/Assistant was having a part- time service alone.”

As far as the earlier judgments where it has allowed in favour of the writ petitioners cannot be followed since that the fact that the Village Headman post is “part time” post was not brought to the knowledge of the other Courts. Therefore, the law upheld in the writ appeal W.A.(MD)Nos. 1629 of 2018 ought to be followed.



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6. Moreover aggrieved over the judgment rendered in W.A.(MD)Nos. 1629 of 2018, one Mr.Vargeese has preferred S.L.P.Nos.763 to 766 of 2021 and the same were dismissed. Therefore, the issue is now settled and the part time job of a Headman/Karnam cannot be included in the regular service, since the Headman post is a part-time post. Therefore, the petitioner is not entitled to the include his part-time service along with the regular service.

7. Hence, both the Writ Petitions stand dismissed. No costs.

07.02.2023

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

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S.SRIMATHY, J.

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