



W.P(MD)No.22151 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.22151 of 2016
and W.M.P. (MD) No.16754 of 2023

Jothimani

...Petitioner

Vs.

1. The Secretary to Government,
Revenue Department,
Fort St. George, Chennai – 9.

2. The Accountant General,
361, Anna Salai, Chennai

3. The District Collector,
Madurai District,
Madurai.

4. The Revenue Divisional Officer,
Usilampatti, Madurai District.

5. The Tahsildar,
Office of Tahsildar,
Thirumangalam Taluk,
Madurai District.

....Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus or direction



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or in the nature of Writ directing the 4th respondent, RDO, Usilampatti to count the 50% of prior service of regularization as qualified service along with regular service of petitioner's husband for grant of enhanced family pension at the rate of 50 % last pay drawn and to issue the family pension on the basis of total service rendered by her husband, revised pension, arrears, pensionary and other monetary benefits accrued thereon to the petitioner from the date of eligibility of family pension within a short date that may be fixed by this Court.

For Petitioner : M/s.K.Abiya
For R1,R3 to R5 : Mr.P.Subbaraj
Special Government Advocate
For R2 : Mr.P.Gunasekaran

ORDER

This Writ Petition has been filed seeking a writ of mandamus directing the fourth respondent to count 50% of prior service of regularization as qualified service along with the regular service of the petitioner's husband for grant of enhanced family pension at the rate of 50% of last pay drawn and to issue family pension on the basis of total service rendered by her husband.



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2. The case of the petitioner is that the husband of the petitioner namely, Gurusamy was appointed as the Village Assistant on consolidated pay on 21.07.1977 at Shengappadai Village, Thirumangalam Taluk, Madurai District, which is under the control of the fifth respondent. Thereafter, the petitioner's husband's services were regularized with effect from 01.06.1995. On 05.02.2000, while he was in service, due to illness, he suddenly expired leaving behind the petitioner and 4 children. The petitioner's husband did not complete 10 years of regular service and at the time of his death, he completed 4 years and 8 months of regular service only. Due to this reason, family pension was not granted to the petitioner. The petitioner submitted several representations to the respondents requesting to pay family pension. As the said representations are not considered and family pension is not sanctioned by the respondents, the present Writ Petition is filed.

3. A counter affidavit has been filed on behalf of the



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respondents, wherein it is stated that the petitioner is not entitled for for sanctioning family pension on the ground that he is not eligible for pension benefits under Tamil Nadu Pension Rules 1978 as the husband of the petitioner served on regular basis only with effect from 01.06.1995 and served for a period of 4 years and 8 months.

4. The learned counsel for the petitioner would submit that though the petitioner is not entitled for family pension as her husband did not complete 10 years of service as required under Rule 49 of Tamil Nadu Pension Rules, the petitioner is entitled for special pension under Rules 8 and 9 of Tamil Nadu Village Assistant Pension Rules, 1995. For better appreciation of the issue involved in this case, Rule 8(1) and Rule 9(3) of the Tamil Nadu Village Assistant Pension Rules, 1995, are extracted herein under:

8) (1) Village Assistant who has completed 5 years of qualifying service and has become eligible for service gratuity on his retirement be granted death-cum-retirement gratuity at the rate of 1/4 th of emoluments for each completed six months period of qualifying



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service, subject to a maximum of 16 1/2 time of monthly emoluments plus a special pension of Rs.150/- per month with attendant benefits.

9.(iii) The family of a Village Assistant shall be paid Special Fa Pension of lump sum of Rs.150/- per month without D.A in event of death of Village Assistant within 10 years of service.

5. A plain reading of the above extracted rules, it is clear that the Village Assistant, who has completed 5 years of qualifying service, is eligible for special pension and the family of the Village Assistant shall be paid special pension at the lump sum rate in the event of death of the Village Assistant within 10 years of service. In view of the clear rule position, in the considered opinion of this Court, the petitioner is entitled for the special pension as provided under Rules 8(1) and 9(3) of the Tamil Nadu Village Assistant Pension Rules 1995.

6. For the above mentioned reasons, this Writ Petition is



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disposed of with the following directions:

- i) The petitioner shall submit application in the prescribed format provided under Rules seeking special pension within a period of one week from today;
- ii) On receipt of the said application, the respondents shall sanction special pension to the petitioner for which she is entitled under the Rules and continue the payment of the petitioner hereinafter;
- iii) The respondent shall pay the arrears of special pension counting from the date of death of the petitioner's husband within a period of four weeks from today.

7. No costs.

8. Consequently, connected miscellaneous petition is closed.

01.09.2023

Index : Yes / No
NCC : Yes / No
CM



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