IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.03.2024

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THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No.6092 of 2018

R.Jagannivasan .. Petitioner

/versus/

1.The Principal Secretary,
Government of Tamil Nadu,
Revenue Department,
Secretariat, Fort St.George,
Chennai 600 009.

2.The Commissioner for Revenue Administration,
Chepauk, Chennai 600 005.

3.The District Collector,
Cuddalore District, Cuddalore.

4.The Tahsildar,
Panruti Taluk, Cuddalore District.

5.The Accountant General of Tamil Nadu,
Teynampet, Chennai 600 018. .. Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records in persuant to the impugned order passed by the 4th respondent in proceedings O.Mu.A5/1275/2017, dated

090202018 and quash the same and consequently direct the respondents to count half of the services rendered by the petitioner as Village Maniam from 17.12.1972 to 10.08.1982 and accordingly, count that services as qualifying services for the purpose of pensionary benefits and revise the pension and pensionary benefits and pay the arrears within a stipulated period.

For Petitioner :Mr.H.Mohamed Ghouse

For Respondents :Mr.L.S.M.Hasan Fizal
AGP for R1 to R4
Mrs.T.S.Selvarani,
Standing Counsel for R5

ORDER

This Writ Petition has been filed seeking a direction to the respondents to count half of the services rendered by the petitioner as 'Village Maniam' from 17.12.1972 to 10.08.1982 and count the services as qualifying services for the purpose of pensionary benefits and revise the pension and pensionary benefits and pay the arrears within a stipulated time.

2. On behalf of the respondents 1 to 4, a counter-affidavit has been filed. On behalf of the 5th respondent, separate counter-affidavit has been filed.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 4 and the learned Standing Counsel appearing for the 5th respondent.

4. The learned counsel appearing for the petitioner submits that the petitioner was initially appointed as Village Maniam on 17.12.1972 and continued in service till 10.08.1982. Consequently, the said post was abolished by the Government and he was ousted from service. Subsequently, he was re-appointed as Village Administrative Officer and joined on 11.08.1982 and worked for about 22 years, 2 months and 21 days and also retired from service on 31.10.2004.

5. The learned counsel appearing for the petitioner also submits that the petitioner was unable to get full pension, since he had not completed 30 years of service as Village Administrative Officer. He further contends that Rule 11 of Tamil Nadu Pension Rules, 1978 was amended and accordingly, half of the services on consolidated pay, honorarium or daily wages shall be counted as qualifying service for retirement benefits. As such, the petitioner is entitled for the same benefit as per the amendment Rule 11 of the Tamil Nadu Pension Rules, 1978. He made a representation on 20.09.2010 to the fourth respondent. The petitioner has submitted another representation on 25.01.2018 to the third respondent. The said representation was rejected by the 4th respondent by passing the impugned order. Aggrieved by the same, the present Writ Petition is filed.

6. The learned counsel appearing for the petitioner also submits that the reason assigned in the impugned order to reject the claim of the petitioner is that the post of Village Administrative Officer is not

yet full time employment and it is only part time and as such the petitioner is not entitled to his claim. The learned counsel also submits that the petitioner has worked in the regular post of Village Maniam for about 10 years and subsequently, he reappointed as Village Administrative Officer. As such the service rendered by him as Village Maniam has to be taken into consideration to fix the pensionary benefits, in the light of the Amendment Rule 11 of the Tamil Nadu Pension Rules, 1978. Accordingly, the learned counsel sought to allow the Writ Petition.

7. The learned counsel appearing for the petitioner has also placed a reliance on the judgment of a Full Bench of this Court in ***The Government of Tamil Nadu represented by Secretary to Government Public Works Department,Secretariat, Chennai-600 009 and others vs. R.Kaliyamoorthy*** reported in ***[2020(2) MLJ 369]*** and he has drawn the attention of this Court to paragraph No.45 of the said judgment. Paragraph No.45 of the said judgment is extracted herein under:-

> 45. In the light of the above, we answer the reference as follows:-
>
> (i) Those who are freshly appointed on or after

> 01.04.2003 are not entitled to pension in view of proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O. Ms. No. 259 dated 06.08.2003
>
> (ii) Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.
>
> (iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.
>
> (iv) Those government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.
>
> (v) Those government servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension."

8. On perusal of the same, it appears that the Full Bench, while answering the reference, held that if such services were regularized before 01.04.2003, half of such service rendered shall be counted for the

purpose of conferment of pensionary benefits.

9. The learned Additional Government Pleader appearing for the respondents 1 to 4 submits that the judgment of the Full Bench has attained finality.

10. In view of the above factual position, it is held that the respondents ought to have considered the half of the services rendered by the petitioner as Village Maniam from 17.12.1972 to 10.08.1982 to fix his pensionary benefits.

11. Under these circumstances, the order impugned in this Writ Petition is liable to be set aside. Accordingly, this Writ Petition is allowed with the following directions:-

(i)The impugned order dated 09.02.2018 is hereby set aside.

(ii)The respondents are directed to count half of the services rendered by the petitioner as 'Village Maniam' from 17.12.1972 to 10.08.1982 and to revise the pension and pensionary benefits to the petitioner.

(iii)The respondents shall pay the arrears, if any, to the petitioner.

(iv)The entire exercise shall be completed, within a period of two months, from the date of receipt of a copy of this order.

12. Accordingly, this Writ Petition is allowed.

13. There shall be no order as to costs.

11.03.2024

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Index:yes/no
Internet:yes/no
Speaking order/non speaking order
Neutral citation:yes/no
To:
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Secretariat, Fort St.George,
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2.The Commissioner for Revenue Administration,
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BATTU DEVANAND,J.

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