IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2024

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THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

W.P.No.6492 of 2020

T.Annadurai ... Petitioner

Vs.

1. The Government of Tamil Nadu,
   Rep by its Secretary,
   Finance Department,
   Fort St.George,
   Chennai – 600 009.

2. The District Collector,
   Cuddalore District.

3. The Commissioner of Revenue Administration,
   Chepauk,
   Chennai – 600 005.

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

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order in REF.A5/628/2018, dated 08.01.2020, passed by the second respondent herein, and quash the same and to consequently direct the respondents to consider the service rendered by the petitioner as Village Karnam from the period 24.03.1978 to 23.06.1978 on Temporary Basis and from 24.02.1979 to 14.11.1980 on Permanent Basis and as Panchayat Assistant from 01.01.1991 to 08.03.1995, in calculating the pension benefits of the petitioner.

For Petitioner : Mr. R.Srinivasalu

For Respondent : Mr. P.Anandkumar,
Government Advocate (for R1 to R3)

No appearance (for R4)

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O R D E R

The instant Writ Petition has been filed challenging the impugned proceedings dated 08.10.2020, passed by the second respondent.

2. The fulcrum of the petitioner's contention is that, though he is a pensioner, his past service from 24.03.1978 to 23.06.1978 as Village Karnam on a temporary basis, and his service from 24.02.1979 to 14.11.1980 as Village Karnam on a permanent basis, have not been taken into consideration

while calculating his pension. Therefore, he sent a proposal to the Government to count his past service for calculating the pension. However, relying on Rule 11 of the Tamil Nadu Pension Rules, the Government rejected the proposal, stating that his past service as Village Karnam was only part-time service.

3. The learned Government Advocate appearing for the first to third respondents would draw the attention of this Court to the judgement of the Hon'ble Division Bench of this Court in the case of ***State of Tamil Nadu and others vs. E. Balachandran,*** reported in ***(2021) 3 MLJ 92***. The relevant portion of which is extracted below for better appreciation and understanding:-

> *“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 parttime 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.

19. Now, let us go into the subsequent Government Orders passed, followed by Rules viz., Tamil Nadu Village Assistants Pension Rules, 1995. We have already discussed the Government Order, which came into existence only at the instance of the respondents Village Assistants, who were working in such capacity as part timers. For the first time, under the said Government Order, a regular time scale of pay came into existence. This is a very important point to be noted with respect to the status of the respondents as part-time Talayaris and they have been brought into regular Government Service. Therefore, regular time scale of pay was fixed with effect from 01.06.1995. The subsequent Rules have been framed to take care of their interest. We may note that Rule 2 to reiterate the aforesaid position, which does not create any doubt in our mind. Under Rule 7, the eligibility of a Village Assistant would arise only when a Village Assistant renders qualifying service. Similarly, under Rule 4(a), the length of service for calculation of pension and gratuity, temporary, officiating and permanent

> *(full-time) service alone should be reckoned as qualifying service. Now, this Rule has been given a go-bye. Resultantly, what the respondents (Talayaris) seek is a relief contrary to their regularization order, by which, they were brought under the regular time scale of pay with effect from 01.06.1995 and the Rules framed thereafter. Therefore, they cannot approbate and reprobate and it is only on their request, parttime service was converted into full-time service prospectively, creating the status of regular post with regular time scale of pay."*

4. Therefore, the learned Government Advocate would submit that the issue becomes no longer *res integra.*

5. At this juncture, the learned counsel for the petitioner would draw the attention of subsequent development, and submit that, against the order of the Hon'ble Division Bench of this Court, there is a reference pending before the Hon'ble Full Bench of this Court. It is made clear that, subject to the orders of the Hon'ble Full Bench of this Court, the petitioner is entitled to revise their claim and is at liberty to proceed in accordance with the order of the Hon'ble Full Bench of this Court.

6. In view of what has been stated in the previous paragraph, and by considering the ratio laid down by the Hon'ble Division Bench of this Court, this Court is of the considered view that the Writ Petition is devoid of merits. Consequently, the Writ Petition is liable to be dismissed.

7. In the result, this Writ Petition stands dismissed. No costs.

23.10.2024

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Index : Yes/No
Speaking order /Non Speaking Order
Neutral Citation : Yes/No

To

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C.KUMARAPPAN, J.

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