IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.33551 of 2023
and W.M.P.No.33363 of 2023

U.Shanmugam ... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by the Secretary to Government,
Revenue Department,
Fort St. George,
Chennai – 600 009.

2.The Principal Accountant General (A & E),
O/o. the Principal Accountant General (A & E),
361, Anna Salai,
Teynampet, Chennai – 600 018.

3.The Revenue Divisional Officer,
Revenue Divisional Office,
Thiruvarur,
Thiruvarur District.

4.The Tahsildar,
The Tahsildar Officer,
Thiruthuraipoondi Taluk,
Thiruvarur District.

5.The Commissioner of Revenue Administration,
Ezhilagam,
Chepauk, Chennai. ... Respondents

(R5 *suo motu* impleaded vide order dated 14.10.2024 in WP.No.33551 of 2023)

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to count the petitioner full service form the date of his appointment till the date of his retirement for the purpose of payment of full pension and count the service rendered on part time basis from the date of joining till the date of regularization towards the payment of pension, DCRG and other terminal benefits which is payable to the government service on attaining the age of retirement.

For Petitioner : Mr.V.Govardhanan

For Respondents : Mr.P.Anandakumar
Government Advocate
for R1, R3 and R4

Mrs.Hema Murali Krishann
Standing Counsel for R2

<u>O R D E R</u>

The Commissioner of Revenue Administration, Ezhilagam, Chepauk, Chennai is *suo motu* added as the 5th respondent in this writ petition.

2.This writ petition has been filed for issue of writ of mandamus directing the respondents to count the full service of the petitioner from the date of his appointment till the date of his retirement for the purpose of payment of full pension and to extend all the attendant benefits to the petitioner.

3.The case of the petitioner is that he was engaged as a Part time Village Assistant at Thiruthuraipoondi Taluk from the year 1983. He was appointed on regular basis in the year 1995. Thereafter, the petitioner was promoted to the post of Office Assistant in the year 2019. The petitioner retired from service on 28.02.2021.

4.The grievance of the petitioner is that his initial engagement as a Part time Village Assistant till the date of regularization was completely ignored for the purpose of fixation of pension. As a result, the petitioner is drawing a lesser pension than what he is entitled to. It is under these circumstances, the petitioner submitted a representation to the respondents and it was not considered. The same resulted in the filing of the present writ petition.

5.The 3rd respondent has filed the counter affidavit and has taken a stand that the petitioner is not entitled for the relief sought for in the light of the judgment of the Division Bench in W.P.(MD)No.6484 of 2017 dated 14.12.2021 and also the judgment of the Division Bench in W.A.(MD)No.1629 of 2018 etc., dated 26.02.2021. Accordingly, the 3rd respondent has sought for the dismissal of this writ petition.

6.Heard Mr.V.Govardhanan, learned counsel appearing on behalf of the petitioner, Mr.P.Anandakumar, learned Government Advocate appearing on behalf of respondents 1, 3 and 4 and Mrs.Hema Murali Krishann, learned Standing Counsel appearing on behalf of the 2nd respondent.

7.This Court had an opportunity to deal with the similar issue in W.P.No.34325 of 2023 dated 27.09.2024. The said writ petition was disposed of in the following terms:

> *6.The issue that is involved in the present writ petition is squarely covered by the Full Bench judgment of this Court in* ***The Government of Tamil Nadu Rep. by Secretary to Government,***

Public Works Department, Secretariat, Chennai vs. R.Kaliyamoorthy *reported in* ***2019 6 CTC 705****. The relevant portions are extracted hereunder:*

> *45. In the light of the above, we answer the reference as follows:*
>
> *(i) Those, who are freshly appointed on or after 1.4.2003 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 6.8.2003*
>
> *(ii) Those Government servants/Employees appointed prior to 1.4.2003 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 1.4.2003, 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 1.4.2003 and absorbed into Regular service after 1.4.2003 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 1.4.2003 but were absorbed in Regular service after 1.4.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for Pension."

7.*The above judgment was subsequently relied upon by the learned Single Judge of this Court in W.P.Nos.18734 of 2020 etc., dated 18.03.2024. The relevant portions are extracted hereunder:*

35. In view of the above discussions these batch of writ petitions are disposed with the following observation and directions:

(i) Those who lost their job on 14.11.1980 and who never got re employment were given with a special pension with effect from 05.12.1986. Hence, there is no question of granting any further relief for them than what has already been granted.

(ii) For those village assistants whose services have been regularised as on 01.06.1995 but continued to be in service, till retirement, half of their past services shall be included along with the whole of their services rendered subsequent to their regularisation till retirement and computed as qualifying years of service for the purpose of pensionary benefit.

(iii) The respondents are directed to consider the representations of all those petitioners who are qualified as above (ii), for inclusion of 50% of their past services for the purpose of pensionary benefits and pass revised orders for sanctioning and disbursing the same within a period of 8 weeks from the date of receipt of the copy of this order.

(iv) No costs. Consequently, the connected miscellaneous petitions are closed.

8.In view of the above, the representations made by the petitioners shall be dealt with in line with the above judgments and appropriate orders shall be passed. The petitioners are directed to make fresh individual representations to the impleaded 6th respondent along with all the particulars and the relevant documents. The copy of the order shall also be annexed with the representations. The copy of the representations shall also be marked to respondents 3 to 5. The impleaded 6th respondent shall pass final orders in the light of the above observations made by this Court and in line with the above judgments relied upon by this Court, within a period of eight weeks from the date of receipt of copy of this order.

8.In view of the above, it will suffice if a direction is given to the petitioner to submit a fresh representation to the impleaded 5th respondent along with all the particulars and the relevant documents. A copy of the order shall also be annexed along with the representation. A copy of the representation shall also be marked to respondents 3 and 4. The impleaded 5th respondent shall pass final orders in the light of the observations made by this Court and in line with the judgments relied upon by the petitioner and the judgments that are relied upon by the respondents, within a period of eight weeks from the date of receipt of copy of this order.

9.This writ petition is disposed of with the above directions. No Costs. Consequently, connected miscellaneous petition is closed.

14.10.2024

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
ssr

To

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