IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.34325 of 2023
and W.M.P.No.34225 of 2023

1.Dharumaiyan

2.Mathiyazhagan ... Petitioners

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),
No.361, Anna Salai,
Teynampet, Chennai – 600 018.

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

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

5.The Tahsildar,
The Tahsildar Office,
Mayiladuthurai Taluk,
Mayiladuthurai District.

6.The Commissioner of Revenue Administration,
Eshilagam, Chepauk,
Chennai. ... Respondents

(R6 *suo motu* impleaded vide order dated 27.09.2024 in WP.No.34325 of 2024)

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 petitioners full service from the date of their appointment till the date of their 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 Petitioners	:	Mr.V.Govardhanan
For Respondents	:	Mrs.V.Yamuna Devi Special Government Pleader for R1, R3 to R5 Ms.Hema Murali Krishnan Standing Counsel for R2

ORDER

The Commissioner of Revenue Administration, Ezhilagam, Chepauk, Chennai is *suo motu* added as the 6th respondent in this writ petition.

2.This writ petition has been filed for issue of writ of mandamus directing the respondents to count the service of the petitioners from the date of their initial appointment till the date of retirement for the purpose of payment of pension and for all other attendant benefits.

3.The case of the petitioners is that they were engaged as part time Village Assistants initially. The particulars of the appointment of the petitioners and their service details are tabulated hereunder:

S.No	Name and age of the petitioners	Date of initial engagement of part time Village Assistant	Date of appointment on regular basis	Date of promotion	Date of Retirement
1	Dharumaiyan	11.12.1984	01.06.1995	07.09.2016	31.07.2022
2	Mathiyazhagan	02.01.1984	01.06.1995	18.11.2016	31.10.2022

4.The grievance of the petitioners that the services rendered by them on part time basis from the date of joining till the date of regularization was not taken into consideration for the purpose of pension. The representations made by the petitioners in this regard was also not considered. It is under these circumstances, the present writ petition has been filed before this Court seeking for appropriate directions.

5.Heard Mr.V.Govardhanan, learned counsel appearing on behalf of the petitioners, Mrs.V.Yamuna Devi, learned Special Government Pleader appearing on behalf of respondents 1, 3 to 5 and Ms.Hema Murali Krishnan, learned Standing Counsel appearing on behalf of the 2nd respondent.

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.

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

27.09.2024

Internet : Yes / No
Index : Yes / No
Speaking Order / Non Speaking Order
ssr

N. ANAND VENKATESH, J.

ssr

To

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