



W.P.(MD).No.12002 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.12002 of 2024

Thavamani

... Petitioner

Vs.

1.The Principal Secretary to Government,
Revenue and Disaster Management Department,
Secretariat,
St.George Fort,
Chennai – 09.

2.The Commissioner of Revenue Administration,
Chepauk,
Chennai.

3.The Accountant General (A & E),
Office of the Accountant General,
No.361, Anna Salai, Chennai – 18.

4.The District Collector,
Sivagangai District,
Sivagangai.

5.The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.

6.The Tahsildar,
Ilayankudi Taluk,
Sivagangai District.

... Respondents



W.P.(MD).No.12002 of 2024

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to count 50% of service rendered by the petitioner as Village Assistant paid from contingencies from 23.11.1976 to 31.05.1995 along with the petitioner's regular service from 01.06.1995 to 28.02.2004 and sanction regular pension in terms of Rule 11 of the Tamil Nadu Pension Rules 1978 and pay arrears of regular pension as per the order passed in Writ Petition in W.P.(MD).Nos.14245, 13660 to 13686, 8714, 6744 and 6745 of 2018 by this Court dated 10.07.2018 and consider based on the petitioner's representation dated 03.05.2024.

For Petitioner : Mr.Kannan Gurusami

For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

Heard Mr.Kannan Gurusami, learned counsel appearing for the petitioner and Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents.



W.P.(MD).No.12002 of 2024

2. The petitioner has filed this petition for issuance of

Writ of Mandamus, seeking direction against the respondents to count 50% of service rendered by the petitioner as Village Assistant paid from contingencies from 23.11.1976 to 31.05.1995 along with the petitioner's regular service from 01.06.1995 to 28.02.2004 and sanction regular pension in terms of Rule 11 of the Tamil Nadu Pension Rules 1978 and pay arrears of regular pension as per the order passed in Writ Petition in W.P.(MD).Nos.14245, 13660 to 13686, 8714, 6744 and 6745 of 2018 dated 10.07.2018 and consider the same based on the petitioner's representation dated 03.05.2024.

3. Earlier, the petitioner has filed Writ Petition in W.P.(MD).No. 14245 of 2018 for the very same relief and this Court vide order dated 10.07.2018 made the following observations:

“50.In that situation, the Rule 4(a) of the Special Rules, even though does not restrict that only 50% of the past service in non-pensionable service shall be taken into account, by taking clue from 4(a) of the Special Rules, which would be applicable to the Village Assistants, the petitioners cannot claim any benefit by compelling authorities to take entire past service prior to 1995, as



W.P.(MD).No.12002 of 2024

qualifying service for pensionary benefits. Therefore, the positive view to be taken in this regard is that, these petitioners shall be entitled to seek 50% of the past service rendered by them prior to 01.06.1995, as qualifying service for the purpose of pensionary benefits.

51. In view of these discussions and in view of the orders passed by this Court in number of cases, as has been referred to above and by taking into account the rule position in this regard and also taking into account the facts that, admittedly, all these petitioners had been appointed long back as Village Assistants and had been rendering service for several years before they have been brought under regular time scale of pay from 01.06.1995, this Court is inclined to pass the following order in all these cases:

- (i) The respondents are directed to consider the request of the petitioners for providing full or eligible pension, by reckoning the temporary, officiating and permanent service of the petitioners rendered by them prior to 01.06.1995, from the date of their respective appointment, as qualifying service, for computing the length of service for calculation of pension and gratuity ;*
- (ii) While calculating the said service, only 50% of the said service rendered by them from the date of appointment till 31.05.1995 shall alone be considered as qualifying service ; and*



W.P.(MD).No.12002 of 2024

(iii) By calculating the said service, whatever the eligible pension for each of these petitioners that shall be calculated and the same, with arrears, shall be paid by the respondents to the respective petitioners, within a period of twelve weeks from the date of receipt of a copy of this order.

52. In view of the above directions, the impugned orders passed in W.P.(MD)Nos.8714, 6744 and 6745 of 2018 are hereby quashed and the matters are remitted in respect of the said writ petitions to comply with the aforesaid directions.

53. With these directions, all these Writ Petitions are ordered, accordingly. No costs."

4. Now, the petitioner has stated that the above direction has not been complied and the petitioner's qualifying services have not been counted properly in spirit of the orders already passed in favour of the petitioner and others in the above batch of Writ Petitions.

5. In such case, the petitioner is at liberty to file a Contempt Petition within a period of two weeks from the date of receipt of a copy of this order and the petitioner cannot re-agitate the same issue which had already been settled.



W.P.(MD).No.12002 of 2024

6. This Writ Petition is **disposed of**, accordingly. No costs.

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10.06.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

To:

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W.P.(MD).No.12002 of 2024

R.N.MANJULA, J.

Nsr

W.P.(MD).No.12002 of 2024

10.06.2024