



W.P.No.25747 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

**W.P.No.25747 of 2018**

A.R.Jayamani

... Petitioner

Vs.

1.The District Collector,  
District Collector's Office,  
Tiruvarur,  
Tiruvarur District.

2.State of Tamil Nadu  
Rep., by its Secretary,  
Department of Revenue,  
Fort St. George,  
Chennai 600 009.

... Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the respondents culminating in the impugned order of the first respondent bearing proceedings No.Na.Ka.4300/2017/E(4) dated 31.07.2017 and quash the same and direct the respondents to sanction, compute and grant the petitioner pension and pensionary benefits by computing the period of his service to commence from the date of his joining the service as part time Thalaiyari (Village Assistant) i.e., from



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01.12.1962 onwards an ending with his retirement as full time Village Assistant on 31.12.2004.

For Petitioner : Ms.M.Deepa  
For Respondents : Mr.T.Chezhiyan, AGP

**ORDER**

This Writ Petition has been filed to call for the records of the respondents culminating in the impugned order of the first respondent bearing proceedings No.Na.Ka.4300/2017/E(4) dated 31.07.2017 and quash the same and direct the respondents to sanction, compute and grant the petitioner pension and pensionary benefits by computing the period of his service commencing from the date of his joining the service as part time Thalaiyari (Village Assistant) i.e., from 01.12.1962 onwards and till his retirement as full time Village Assistant on 31.12.2004.

2. Heard Ms.M.Deepa, learned counsel for the petitioner, Mr.T.Chezhiyan, learned Additional Government Pleader for the respondents and perused the materials available on record.

3. The petitioner was appointed as part-time Village Assistant on

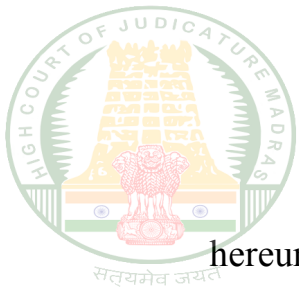


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01.12.1962. In pursuant to the Government Order passed in G.O.Ms.No.625 dated 06.07.1995, the petitioner's services in the post of Village Assistant was regularised with effect from 01.06.1995. On 29.10.1998, a Government Order has been issued in G.O.(3D).No.9, to regularise the service of the part-time Village Assistants as full time Government servants. On 31.12.2004, the petitioner retired from service.

4. The learned counsel for the petitioner submitted that there is no break in service for the petitioner and hence, his past services from 1962 can be included for pension.

5. The petitioner claims that the petitioner's whole of the service should be included for the purpose of pension and in this regard, various judgments have been passed by settling the preposition of law and entitlement of the Village Assistants to compute their services rendered prior to 01.06.1995. After having dealt with several judgments, this Court has passed an order in ***W.P.Nos.12033 & 19550 of 2020 dated 15.03.2024***. The relevant paragraphs of the said order are extracted



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hereunder:

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*"21. In a latest judgment of the Full Bench of this Court dated made in W.P.No.23823 of 2023 had dealt a reference on the issue of retrospective/prospective effect of G.O.Ms.No.74 dated 27.06.2013. Though the above judgment does not deal with anything about services of Village Assistants, the said judgment has made a detailed analysis of how the Government cannot exploit the services of its employees including basic level servants, more specifically 86 categories of post in the Tamil Nadu Basic Service. The full bench had concluded and answered that the view that the Government is free to appoint persons either in part-time or on a full-time temporary basis to permanent posts and oust them out at it whims and fancies can not be accepted and that such unbridled exercise of indiscretions by the State Government would amount to exploitation.*

*22.The post of Village Assistant does not come under the 86 categories of Tamil Nadu basic service. But their post in the village is just basic, as they had been designated as Village Assistants / Thalaisyaris / Village Kavalas. So the principle adopted in*



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*W.P.No.23823 of 2023 to resolve the issue involved in the said case can be considered as a guiding light to solve the continuing conundrum of the nature of the past services of the village assistants. In this regard it is relevant to extract the relevant paragraphs of the Full Bench Judgment as under:*

*“35. The other judgment, which is cited in the order of reference as one that would support the view that G.O.Ms.No.74 dated 27.06.2013 is retrospective, of the Division Bench in State of Tamil Nadu. by its Secretary, Public Works Department. and another Vs.S.John Charles and others. The Appeal arose out of a judgment of the learned Single Judge of this Court, which had quashed Clause 6 of G.O.Ms.No.74 dated 27.06.2013, which restricts the operation of G.O.Ms.No.22 dated 28.02.2006 only to full time employees. The power of the Government to change its policy was upheld and in the course of the order, the Division Bench has observed that the Government has not taken away the right to regularize the services subsequently provided those persons had completed 10 years of service as on 28.02.2006. The Division Bench described the action of the Government in passing G.O.Ms.No.74 dated 27.06.2013 as an attempt to*



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*streamline the scheme relating to regularisation. Even the other judgments of this court, which have been referred to by us earlier, reaffirm the view that parity should be maintained, there should be no exploitation by the Government which is a welfare State and temporary or part-time employment to permanent posts should be stopped.*

*36. Having considered the entire literature that is available in the form of various pronouncements of this court, as well as the Hon'ble Supreme Court, we find it difficult to accept the judgment of the Division Bench in State of Tamil Nadu. by its Secretary, Public Works Department. and another vs. S. John Charles and others, as one laying down the law to the effect that the Government is free to appoint persons either in part-time or on a full-time temporary basis to permanent posts and oust them out at its whims and fancies and we conclude that such unbridled exercise of indiscretions by the State Government would amount to exploitation.*

*37. We are of the considered opinion that wherever the posts are permanent in nature and they come within 86 categories of posts which form the Tamil Nadu Basic Service, temporary or part-time*



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*employment should be avoided and those persons, who have been appointed to such posts and who have completed 10 years of service as on 28.02.2006 would be entitled to regularisation dehors the nomenclature that is given to the appointment.”*

*23. So the rationale of the latest Full Bench judgment in the above judgment in my view would override the earlier Division Bench judgment which deprived the benefit of including the past services of the village assistant for pensionary benefit. In the back ground of the above discussion I feel the past services of the petitioner's husband should be considered as full-time for the following two reasons:*

*1. by virtue of the description of his services in the very appointment order.*

*2. the nature of the services executed by him as a Village Assistant without prescribing any particular part time work hours.*

*24. In the background of the thrust added through the judgement of the full bench and in the absence of any rule in the Village Assistant Pension Rules to include the past service of a village assistant*



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*who got regularized on 01.06.1995 and also considering the saving clause present in the said rules the Village Servants Service Rules 1980 that those rules would not adversely affect the persons covered therein, I feel recourse can be had to the general rules of Tamil Nadu Pension Rules, 1978, so far it relates to the computation of past services.*

*25. Accordingly, if the petitioner's husband's past services are computed from the date of his appointment i.e., 23.04.1984 by giving 50% allowance along with service rendered from 01.06.1995 and till the date of his death, the total qualifying service would come to 11 ½ years. So the petitioner's husband comes under the qualification to get pension and hence, the petitioner's family pension can be fit under Rule 9(2) of Village Assistant Pension Rules, 1995.*

*26. The petitioner has also sought the relief of declaring the Rule 9(3) as illegal. Since 9(3) is not applicable to the case of the petitioner in view of the above stated reasons, the said exercise is unnecessary and the issue is left open to be dealt in any future cases if any, before the appropriate forum.*



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*27. In view of the above said reasons, these Writ Petitions are **disposed** and the respondents are directed to compute the qualifying service of the petitioner's husband by adding 50% of his past services from 23.04.1984 to 31.05.1995 with his services rendered from 01.06.1995 to 06.08.2001 in order to accommodate the petitioner's family pension to be granted under Rule 9(2) and sanction the same and issue orders accordingly within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed."*

6. In the said judgment, it is held that 50% of the past services rendered till 31.05.1995 has been ordered to be included along with the regular service. Since the petitioner is also similarly placed, I feel the same benefit can be given to the petitioner also.

7. In the result, this Writ Petition is disposed and the impugned

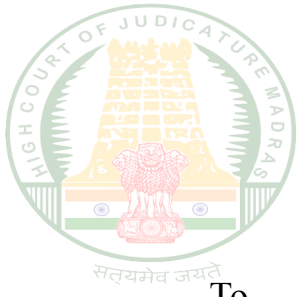


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order in No.Na.Ka.4300/2017/E(4) dated 31.07.2017 is set aside and the respondents are directed to do the similar exercise that has been done for the petitioners in ***W.P.Nos.12033 & 19550 of 2020 dated 15.03.2024*** for this petitioner also and grant all service and attendant benefits to the petitioner accordingly. No costs.

Index : Yes /No  
Speaking / Non-speaking  
Neutral Citation : Yes / No  
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**R.N.MANJULA, J.**

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