

(1999) 07 MAD CK 0021
In the Madras High Court
Case No : S.A. No. 1237 of 1987

P.S. Thiruvengkatachari

APPELLANT

Vs

State of Tamil Nadu, Cuddalore and 1 another

RESPONDENT

Date of Decision : 20-07-1999

Acts Referred:

Citation : (1999) 07 MAD CK 0021

Hon'ble Judges : K. Natarajan, J

Bench : Single Bench

Advocate : R. Aravind, for the Appellant; T.K. Daveson, Government Advocate for Respondents, for the Respondent

Judgement

K. Natarajan, J.—This Second Appeal has been directed against the Judgment and decree of the learned Subordinate Judge, Vridhachalam

dated 28.8.1986, reversing the judgment and decree of the learned District Munsif Kallakurichi dated 29.11.1984 in O.S. No. 368 of 1981. The

appellant who is the plaintiff before the trial Court instituted the suit for the recovery of Rs. 4,800/- as subsistence allowance on the ground that he

is a permanent village Karnam and he had been suspended from service on 11.7.1978 by the Revenue Divisional Officer, Vridhachalam on the

petition sent by some villagers and that he is entitled to subsistence allowance at the rate of Rs. 150/- per month from 11.7.1978 till 30.3.1981 i.e.

for a period of 32 months.

2. The Respondents/Defendants resisted the suit stating that the Village Karnam is a part-time employee and he is not entitled to the benefits given

to the full-time Government Servant. It was also contended that the Post of the Village Karnam itself has been abolished on and from 14.11.1980.

3. The learned District Munsif, Kallakurichi on the pleadings of the parties formulated the necessary issues and on a consideration of the evidence

adduced by both the parties and the submissions made by the Learned Counsel for both held that the plaintiff is a full time Government Employee

as per G.O. Ms. No. 3597 (Revenue) Department dated 20.11.1970 and that he is entitled to the subsistence allowance claimed by him and

decree the suit as prayed for. The respondents/defendants preferred appeal A.S. No. 42 of 1985 against the Judgment and decree of the trial

Court. The learned Subordinate Judge, Vridhachalam on a reappraisal of the evidence and after hearing the submissions of the Learned Counsel,

for both the parties held that as per clause 15 of the G.O. Ms. No. 3597 (Revenue) Department dated 20.11.1970 the plaintiff is not entitled to

the benefits applicable to the permanent Government employees. According to him clause No. 18 is inapplicable to the case of the plaintiff.

Ultimately the learned Subordinate Judge reversed the finding of the learned District Munsif Kallakurishi allowed the appeal and dismissed the suit

against which the Second Appeal has been preferred by the unsuccessful plaintiff.

4. The Learned Counsel for the appellant submitted that the learned Subordinate Judge is incorrect in holding that Clause 15 of G.O. Ms. No.

3597 (Revenue) Department, dated 20.11.1970 is alone applicable and Clause 18 is not applicable. It is pointed out for persons who are not in

service on 20.11.1970 Clause 15 is applicable and in respect of persons who were in service as village Munsif or village Karnam on 20.11.1970

Clause 18 alone is applicable and not clause 15. It is submitted that the plaintiff was very much in service on 20.11.1970 and therefore Clause 15

of the said Government order is inapplicable to this case and clause 18 alone is applicable and he is entitled to subsistence allowance from

11.7.1978 till 14.11.1980, viz., till the time the post was abolished, i.e., for a period of 28 months at the rate of Rs. 150/- per month. On the

evidence available the learned Government Advocate is unable to convince this Court that the plaintiff was not in service on 20.11.1970 and that

Clause 15 alone is applicable. The evidence clearly shows that the plaintiff is very much in service on 20.11.1970 and therefore the learned District

Munsif is correct in his conclusion that Clause 18 of G.O. Ms. No. 3597 (Revenue) Department dated 20.11.1970 alone is applicable and not

Clause 15. I am satisfied that the learned Subordinate Judge Vridhachalam has not taken into account the evidence properly and the undisputed fact that the plaintiff was very much in service on 20.11.1970. Therefore, the learned Subordinate Judge had committed a grave legal error in reversing the finding of the learned District Munsif, Kallakurichi with regard to the above aspect. Since the post of the village Karnam has been abolished on and from 14.11.1980 the plaintiff is entitled to subsistence allowance for a period from 11.7.1978 to 14.11.1980 only and not upto 30.3.1981 as claimed in the plaint which works out to 25 months and 3 days. In the result, the Judgment and decree of the learned Subordinate Judge, Vridhachalam is set aside and there will be a decree in favour of the plaintiff/appellant that he is entitled to subsistence allowance from 11.7.1978 to 14.11.1980 at the rate of Rs. 150/- per month with interest at 6% per annum from the date of the decree of the trial Court. The decree of the learned District Munsif shall be modified in the above terms. There will be no order as to costs.