

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2016

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THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.8157 of 2014

and

MP.No.1 of 2014

S. Madasamy ..Petitioner
vs.

1.The Principal Accountant General
(Accounts & Entitlements) Tamil Nadu
361, Annasalai,
Teynampet, Chennai - 600 018.

2.The District Collector
Tirunelveli District,
Tirunelveli. ..Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to order bearing No.Pen 3/3/20309189/ADK dated 11.02.2014 of the first respondent confirming the earlier order bearing Ref.No.pr AG(A&E) PEN/Po.3.10309189/4/R.0309189 dated 09.10.2013 of the first respondent herein and quash the same and further direct the respondents to grant pension by counting 50% of services rendered by the petitioner in the cadre of Part time Panchayat clerk from 10.12.1975 till 31.12.1981 and service rendered by the petitioner as full time panchayat clerk from 01.01.1982 and 30.11.2001 along with regular service of Junior Assistant from 01.12.2001 till 31.07.2007 for the purpose of pension with all consequential benefits.

For Petitioner :Mr.V.Suthakar

For Respondent No:2 :Mr.S.Gunasekaran
Additional Govt.Pleader

ORDER

The Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to order bearing No.Pen 3/3/20309189/ADK dated 11.02.2014 of the first respondent, confirming the earlier order bearing Ref.No.pr AG(A&E) PEN/Po.3.10309189/4/R.0309189 dated 09.10.2013 of the first respondent herein, and quash the same and further

to direct the respondents to grant pension by counting 50% of services rendered by the petitioner in the cadre of Part time Panchayat clerk from 10.12.1975 till 31.12.1981 and service rendered by the petitioner as full time panchayat clerk from 01.01.1982 and 30.11.2001, along with regular service of Junior Assistant from 01.12.2001 till 31.07.2007, for the purpose of pension, with all consequential benefits.

2. It is stated by the learned counsel for the petitioner that the petitioner was initially appointed as a part time panchayat clerk at Therkuvallioor Village Panchayat with effect from 10.12.1975. He was subsequently appointed as a full time panchayat clerk at Therkuvallioor Village Panchayat with effect from 01.01.1982.

3. The Government of Tamil Nadu by G.O.Ms.No.349 P & AR dated 12.04.1984, issued an amendment to the Tamil Nadu Ministerial Service, reconstituting Ministerial Unit of the Panchayat Development Department. By virtue of the amendment to the ministerial Rules 10% of the vacancy in the cadre of Junior Assistant is reserved for part time/full time clerk of village panchayat and Office Assistant, if they have put in a regular service for a period of not less than 5 years in the post held by them and should possess a minimum general Educational qualification to hold the post of Junior Assistant.

4. Based on the said G.O.Ms.No.349 P & AR dated 12.04.1984, the petitioner was appointed as a Junior Assistant with effect from 28.08.2001 as against the 10% vacancy reserved for part time/full time panchayat clerk/Panchayat Assistant.

5. The petitioner has put in 7 years of service in the category of part time (Panchayat Clerk from 10.12.1975 to 31.12.1981) and 19 years 11 months of service as full time panchayat clerk in the time scale of pay between 01.01.1982 to 30.11.2001 and 5 years 8 months of service as Junior Assistant between 01.12.2001 and 31.07.2007.

6. The petitioner attained the age of superannuation on 31.07.2007. He was allowed to retire without prejudice to the pendency of departmental proceedings initiated against him. The said proceedings were dropped as evident from G.O.Ms.No.430 Rural Development and Panchayat Department, dated 14.08.2012, and G.O.(D)No:34 Rural Development (E2) and Panchayat Raj Department, dated 28.01.2013. Once the disciplinary proceedings were dropped against the petitioner, the Block Development Officer, Radhapuram, who is the pay drawing officer to the petitioner at that time of retirement,

sent a proposal to the first respondent herein to grant pension. But the first respondent herein had written a letter dated 09.10.2013 bearing Ref.No.Po.3.10309189/4/R.0309189, sanctioning gratuity of Rs.60731/- and stated the service rendered by the petitioner both as part time Panchayat Clerk and full time Panchayat Clerk cannot be taken into account for the purpose of pension as clarification is pending with the Government.

7. Subsequently, the Block Development Officer, Radhapuram, written another letter for sanctioning of pension by counting 50% of full time service rendered by the petitioner along with regular Government service of 5 years 8 months. But the said proposal was also returned on 11.02.2014 on the ground that clarification is awaited from Government regarding reckoning 50% of service rendered in Village Panchayats for pensionary benefits. The petitioner is entitled to claim 50% of full time service as per G.O.Ms.No.408 Finance (Pension) Department dated 25.08.2009, as well as he is entitled to count 50% of part time service as per G.O.Ms.No.39 Rural Development Department and Panchayat Raj, dated 13.06.2011. Hence, the petitioner has filed the present writ petition seeking the relief as stated supra.

8. When the matter is taken up for consideration, the learned counsel for the petitioner submitted that on 13.01.2016, the first respondent addressed a letter to the Block Development Officer, Radhapuram, Tirunelveli asking him to furnish the service certificate to the petitioner for the service rendered by him as full time Panchayat Clerk from 01.01.1982 to 30.11.2001 along with the revised pensionary proposal and service register for further action. In the said letter, it has been also stated that the Government have ordered that the Panchayat Assistant working in full time in the cadre of Grade I or Grade II who absorbed in Government service prior to 01.04.2003, their full time panchayat clerk service may be taken for calculating pensionary benefits as per G.O.Ms.No.77, Rural Development and Panchayat Raj Department, dated 12.07.2013, and accordingly, only the service rendered by the petitioner as a full time Panchayat Clerk is taken for counting services and calculation of pensionary benefits. But, now the Block Development Officer, Radhapuram, has also sent a necessary particular pension proposal to the first respondent. Therefore, if a direction is given to the first respondent to pass appropriate order based on the proposal of the revised service register furnished by the Block Development Officer, Radhapuram, it would suffice.

9. Though the writ petition has been filed for a larger relief, since the petitioner has prayed for a direction to the first respondent to pass the order based on the revised pension proposal and service register sent by the Block Development Officer, Radhapuram, this court without going into the merits of the claim made by the petitioner, directs the first respondent to pass an order with regard to the granting of pension amount based on the proposal sent by the Block Development Officer, Radhapuram, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

gv

To

1.The Principal Accountant General
(Accounts & Entitlements) Tamil Nadu
361, Annasalai,
Teynampet, Chennai - 600 018.

2.The District Collector
Tirunelveli District,
Tirunelveli.

1 cc to Mr.V.Suthakar, Advocate, Sr. 56385

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