

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2016

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.Nos. 21397 to 21399 of 2016
and W.M.P.Nos.18312 to 18315 of 2016

W.P.No.21397 of 2016:-

P.Sellavelu .. Petitioner

Vs.

1. The Government of Tamil Nadu
rep. by its Principal Secretary to Government
Rural Development & Panchayat Raj Department
Fort St.George, Chennai-600 009.
2. The Director of Rural Development & Panchayat Raj
Panagal Building
Saidapet
Chennai-600 015.
3. The Principal Accountant General (A&E) Tamil Nadu
No.361, Anna Salai
Chennai-600 018.
4. The District Collector
Erode District
Erode. .. Respondents

W.P.No.21398 of 2016:-

R.Sekar .. Petitioner

Vs.

1. The Government of Tamil Nadu
rep. by its Principal Secretary to Government
Rural Development & Panchayat Raj Department
Fort St.George, Chennai-600 009.
2. The Director of Rural Development & Panchayat Raj
Panagal Building
Saidapet
Chennai-600 015.

3. The District Collector
Krishnagiri District
Krishnagiri.

4. The Principal Accountant General (A&E) Tamil Nadu
No.361, Anna Salai
Chennai-600 018.

.. Respondents

W.P.No.21399 of 2016:-

H.V.Arivuselvam

.. Petitioner

Vs.

1. The Government of Tamil Nadu
rep. by its Principal Secretary to Government
Rural Development & Panchayat Raj Department
Fort St.George, Chennai-600 009.

2. The Director of Rural Development & Panchayat Raj
Panagal Building
Saidapet
Chennai-600 015.

3. The District Collector
Dharmapuri District
Dharmapuri.

4. The Principal Accountant General (A&E) Tamil Nadu
No.361, Anna Salai
Chennai-600 018.

.. Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying for Writ of Certiorarified Mandamus, to call for the records pertaining to paragraph 4(b) of G.O.Ms.No.77 Rural Development and Panchayat Raj Department, dated 12.07.2013, of the 1st respondent and also the consequential communication from the 4th respondent bearing Pen3/IV/10314592/14-15, dated 12.05.2015 and PO3/10315230/3RO315230, dated 28.07.2015, to the petitioners in W.P.Nos.21398 and 21399 of 2016 respectively and quash the same, insofar as it relates to not counting the services rendered by the petitioners in part-time Panchayat Clerk along with regular service for the purpose of pension and to direct the respondents to count 50% services rendered in the post of Panchayat Clerk from 20.05.1980, 02.02.1995, 1.1.1984 till 29.12.2000, 1.10.1975 till 15.11.1985 along with regular service for the purpose of granting pension and to pass such further orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioners : Mr.V.Suthakar
in all WPs.
For Respondents : Mr.M.Dig Vijaya Pandian
in all WPs. Additional Government Pleader
for R.1 and R.4

COMMON ORDER

By consent, these Writ Petitions are taken up and disposed of at the admission stage itself.

2. These Writ Petitions have been filed to issue Writ of Certiorarified Mandamus, to call for the records pertaining to paragraph 4(b) of G.O.Ms.No.77 Rural Development and Panchayat Raj Department, dated 12.07.2013, of the 1st respondent and also the consequential communication from the 4th respondent bearing Pen3/IV/10314592/14-15, dated 12.05.2015 and PO3/10315230/3RO315230, dated 28.07.2015, to the petitioners in W.P.Nos.21398 and 21399 of 2016 respectively and quash the same, insofar as it relates to not counting the services rendered by the petitioners in part-time Panchayat Clerk along with regular service for the purpose of pension and to direct the respondents to count 50% services rendered in the post of Panchayat Clerk along with regular service for the purpose of granting pension.

3. The petitioners were appointed as Part-Time Panchayat Clerks in Punnam Panchayat, Belathur Panchayat and Achamangalam Panchayat respectively, on 20.05.1980, 01.01.1984 and 17.10.1975 respectively. Subsequently, they were absorbed as Junior Assistant w.e.f. 03.02.1995, 30.12.2000, and 18.11.1985 and further promoted as Deputy Block Development Officer. Ultimately, on reaching the age of superannuation, they retired from service on 30.04.2014, 30.04.2015 and 31.07.2015. The State Government took a policy decision by G.O.Ms.No.39, Rural Development and Panchayat (E5) Department, dated 13.06.2011, whereunder, it was observed that an employee, working in Panchayat as Full-Time Clerk or Part-Time Clerk and having been absorbed by the Government prior to 1st April, 2003, will be entitled to count 50% of the service as part-time employee under the consolidated pay for the purpose of computation of pensionary benefits. Subsequently, the said Government Order, was amended by G.O.Ms.No.77, Rural Development and Panchayat Raj Department, dated 12.07.2013, whereunder, counting of 50% of service in case of Part-Time Clerks was withdrawn. The grievance of the petitioners is that they were granted pension by calculating only the regular Government Service and refused to take 50% service put by them as Part-Time Clerk by virtue of G.O.Ms.No.77 Rural Development Department, dated 12.07.2013.

Hence, seeking the relief stated supra, the petitioners have filed the above Writ Petitions.

4. Mr.V.Suthakar, the learned counsel for the petitioners would submit that the petitioners were absorbed as Junior Assistant before 01.04.2003. To substantiate his contention that the petitioners are entitled to the benefit as granted in G.O.Ms.No.39 and the subsequent, Government Order in G.O.Ms.No.77, would not be applicable to those employees, who were entitled to the benefit before issuance of the said Government Order, he would rely on a similar judgment passed by the Division Bench of this Court in W.A.No.431 of 2016, dated 11.04.2016, wherein, the order passed by the learned Single Judge in W.P.No.26785 of 2013, dated 27.06.2014 came to be confirmed. He would further add that following the said judgment, these Writ Petitions may be ordered, on the same line.

5. Mr.M.Dig Vijaya Pandian, the learned Additional Government Pleader, who takes notice on behalf of the respondents 1 and 4, would contend that these Writ Petitions may be ordered in the light of the Division Bench judgment of this Court in W.A.No.431 of 2016, dated 11.04.2016.

6. It is relevant to refer to the Division Bench judgment of this Court in W.A.No.431 of 2016, dated 11.04.2016, wherein, this Court in paragraph Nos.4, 5 and 6, has held as follows:-

"4. The State Government took a policy decision by G.O.Ms.No.39, Rural Development and Panchayat (E5) Department, dated 13 June 2011, (for short "G.O.Ms.No.39") whereunder, it was clearly observed that an employee, working in Panchayat as Full Time Clerk or Part Time Clerk and having been absorbed by the Government prior to 01 April 2003, will be entitled to counting 50% of the service as part time employee under the consolidated pay for the purpose of computation of pensionary benefits. Subsequently, the said Government Order, as pleaded by the learned Special Government Pleader appearing for the appellants, was amended by G.O.Ms.No.77, Rural Development and Panchayat Raj Department, dated 12 July 2013 (for short "G.O.Ms.No.77"), whereunder, counting of 50% of service in case of Part Time Clerks was withdrawn.

5. In the case on hand, indisputably, the respondents 1 and 2 were absorbed as Junior Assistant before 01 April 2003, subsequent to which the first respondent was promoted as

Assistant and retired from service on 31 December 2009 and the second respondent retired as Cashier on 30 June 2007. Thus, the respondents 1 and 2 are entitled to the benefit as granted in G.O.Ms.No.39 and the subsequent Government Order in G.O.Ms.No.77, would not be applicable to those employees, who were entitled to the benefit before issuance of the said Government Order.

6. The learned single Judge has rightly come to the conclusion that 50% of the service period put in by the respondents 1 and 2 under the consolidated pay by way of part time employment will be computed for pensionary benefits. We do not find any reason to take a view contrary to the one taken by the learned Single Judge."

7. Since, the petitioners have been absorbed as Junior Assistant before 1st April, 2003, they are also similarly placed as that of the petitioners in W.A.No.431 of 2016, dated 11.04.2016. In the light of the above judgment of the Division Bench of this Court, these Writ Petitions are ordered on the same line and a direction is issued to the respondents to count 50% of the service period put in by the petitioners under the consolidated pay by way of part-time employment along with regular service and the same shall be computed for pensionary benefits. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To

1. The Principal Secretary to Government
The Government of Tamil Nadu
Rural Development & Panchayat Raj Department
Fort St.George, Chennai-600 009.

WEB COPY

2. The Director of Rural Development & Panchayat Raj
Panagal Building
Saidapet
Chennai-600 015.

3. The Principal Accountant General (A&E) Tamil Nadu
No.361, Anna Salai
Chennai-600 018.

4. The District Collector
Erode District
Erode.

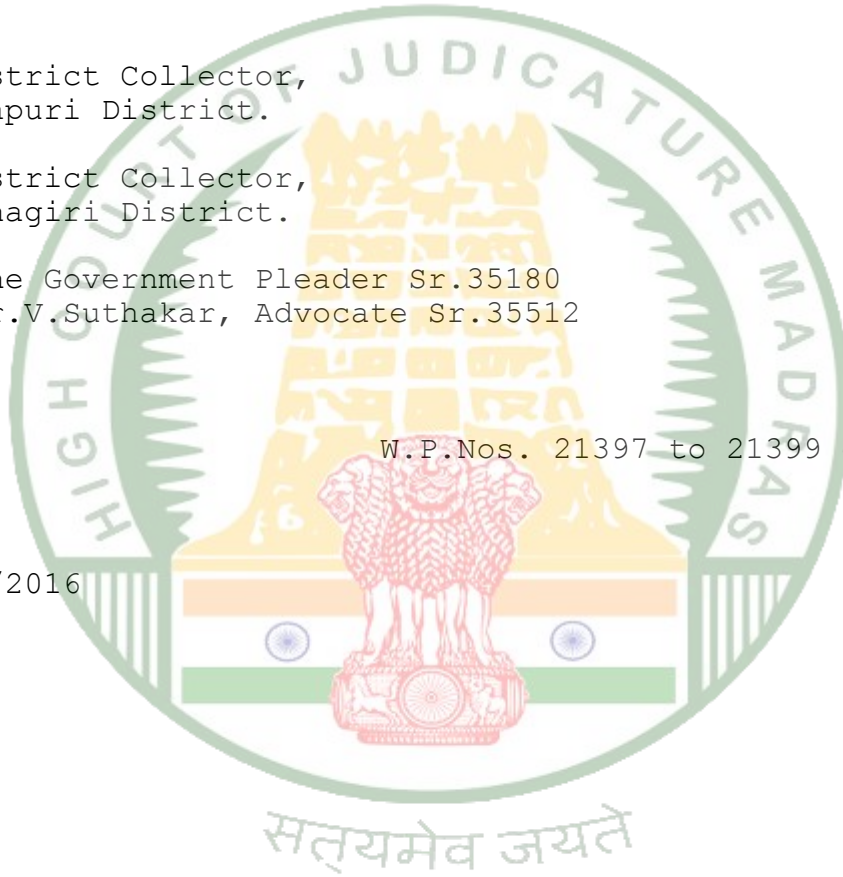
5. The District Collector,
Dharmapuri District.

6. The District Collector,
Krishnagiri District.

+1cc to the Government Pleader Sr.35180
+1cc to Mr.V.Suthakar, Advocate Sr.35512

W.P.Nos. 21397 to 21399 of 2016

pa[co]
srg 12/07/2016



WEB COPY