

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2016

CORAM

THE HON'BLE MR. JUSTICE B.RAJENDRAN

W.P.No. 24718 of 2016  
and W.M.P.No.21112 of 2016

A.V.Palanisamy

.. 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

Writ Petition filed under Article 226 of the Constitution of India praying for a 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 1<sup>st</sup> respondent and quash the same insofar as it relates to not counting the services rendered by the petitioner 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 16.10.1980 till 31.12.1990 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 Petitioner : Mr.V.Suthakar

For Respondents : Mr.M.Dig Vijaya Pandian  
Additional Government Pleader

O R D E R

By consent, the Writ Petition is taken up and disposed of at the admission stage itself.

2. The Writ Petition has been filed to issue a 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 1<sup>st</sup> respondent and quash the same insofar as it relates to not counting the services rendered by the petitioner 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 16.10.1980 till 31.12.1990 along with regular service for the purpose of granting pension.

3. The petitioner was appointed as Part-Time Panchayat Clerk in Punnam Panchayat, on 16.10.1980. Subsequently, he was absorbed as Junior Assistant w.e.f. 03.02.1995 and further promoted as Deputy Block Development Officer. Ultimately, on reaching the age of superannuation, he retired from service on 31.10.2013. 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 1<sup>st</sup> 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 petitioner is that he was granted pension by calculating only the regular Government Service and refused to take 50% service put by him 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 petitioner has filed the above Writ Petition.

4. Mr.V.Suthakar, the learned counsel for the petitioner would submit that the petitioner was absorbed as Junior Assistant before 01.04.2003. To substantiate his contention that the petitioner is 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, this Writ Petition 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, would contend that this Writ Petition 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 petitioner has been absorbed as Junior Assistant before 1<sup>st</sup> April, 2003, he is 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, this Writ Petition is ordered on the same line and a direction is issued to the respondents to count 50% of the service period put in by the petitioner 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 Petition is closed. No costs.

-s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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

+1 cc to Government Pleader sr.40427  
+1 cc to V.Suthakar Advocate sr.40727

W.P.No. 24718 of 2016

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