

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. No.127 of 2016
and
C.M.P. No.1764 of 2016

1. The Government of Tamil Nadu
represented by its Secretary to Government
Rural Development and Panchayat Raj Department
Fort St. George, Chennai 600 009
 2. The Commissioner of Rural Development and Panchayat Raj
Panagal Building
Saidapet, Chennai 600 015
 3. The District Collector
(Panchayat Development Section)
Tirunelveli District
Tirunelveli
- Vs.
1. C. Lakshmanan
 2. The Principal Accountant General of Tamil Nadu
(Accounts & Entitlements)
361 Anna Salai
Chennai 600 018
- ... Appellants
- ... Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent
challenging the order dated 23.09.2014 passed in W.P. No.12920
of 2013.

W.P. No.12920 of 2013 : Writ Petition filed under Article 226 of
the Constitution of India for issuance of a Writ of Mandamus to
direct the respondents to count 50% of the services rendered in
post of part time Panchayat Clerk by the Petitioner between
01.07.1975 and 27.08.2001 together with regular service for the
purpose of pension.

For Appellants : Mrs. A. Srijayanthi
Special Government Pleader

JUDGMENT
(Delivered by SATISH K. AGNIHOTRI, J.)

The instant intra-court appeal emanates from the order dated 23 September 2014 made in W.P.No.12920 of 2013.

2. To avoid prolixity, the parties are referred to as per their litigative status in this intra-Court appeal.

3. The first respondent filed the instant writ petition seeking a writ of mandamus directing the appellants to count 50% of the services rendered by him in the post of Part Time Panchayat Clerk from 01 July 1975 to 27 August 2001 together with regular service for the purpose of pension.

4. Indisputably, the first respondent was appointed as Part Time Panchayat Clerk on 01 July 1975 and he continued to work as such till 27 August 2001. From 28 August 2001, by way of transfer, he was appointed as Junior Assistant on time scale of pay as per G.O.Ms.No.964, Rural Development Department, dated 28 November 1990. Subsequently, he was promoted as Assistant and Extension Officer. On reaching the age of superannuation on 30 June 2011, he retired from service. Thereafter, he has filed the instant writ petition seeking the aforestated direction.

5. An identical issue as to whether part time teachers appointed as Vocational Teachers are entitled to counting of 50% of their services as qualifying service for the purpose of computing pension, came up for consideration in Government of Tamil Nadu, represented by the Secretary to Government, School Education Department, Fort St. George, Chennai-600 009 and 3 others Vs. B.Raghavendran¹. A Division Bench of this Court, considering all relevant Government Orders, by judgment dated 16th March, 2015, held as under :

"11. On bare perusal of the aforestated G.Os, it emerges that employees must be under non-provincialised service, consolidated pay, honorarium and daily wages and absorbed in permanent government service before 1.4.2003. The respondent was absorbed in permanent service on 1.4.1990. The employee should also work as full time employee. No doubt, the respondent had worked as Single Part Time vocational instructor from 17.10.1978 to 21.8.1979 and doubt part time vocational instructor from 22.8.1979 till 31.3.1990, the day he was absorbed in regular time scale.

¹ W.A.No.359 of 2015

12.The respondent has averred specifically in his writ petition affidavit that his workload was not less than 20 periods in a week and as such, double part time means full time as there is no concept of double part time, when the employee is required to work in the morning and also in the afternoon. In fact, the employment of the respondent was full time, not part time. There is no denial on the part of the authorities either before the writ court or in the appeal memo filed before us. Thus, the working of the respondent for not less than 20 periods in a week has been established. It is also not disputed that if an employee works for not less than 20 periods in a week, he is a full time employee. Thus, for all practical purpose, the respondent ought to have been treated as full time employee from 22.8.1979 till he was absorbed in regular service and retired. Accordingly, 50% of the respondent's period as double part time vocational instructor from 22.8.1979 till 31.3.1990 be counted for the purpose of computing pensionary benefits under the aforestated G.Os."

There is no distinguishing feature, except the date of appointment and the name of the post. Thus, we hold that this case is squarely covered by the aforestated judgment.

For the reasons mentioned hereinabove, there is no reason to take a view contrary to the one taken by the learned Single Judge and as such, no interference is warranted. Accordingly, the writ appeal stands dismissed. Connected C.M.P. is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS V)

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Sub Assistant Registrar

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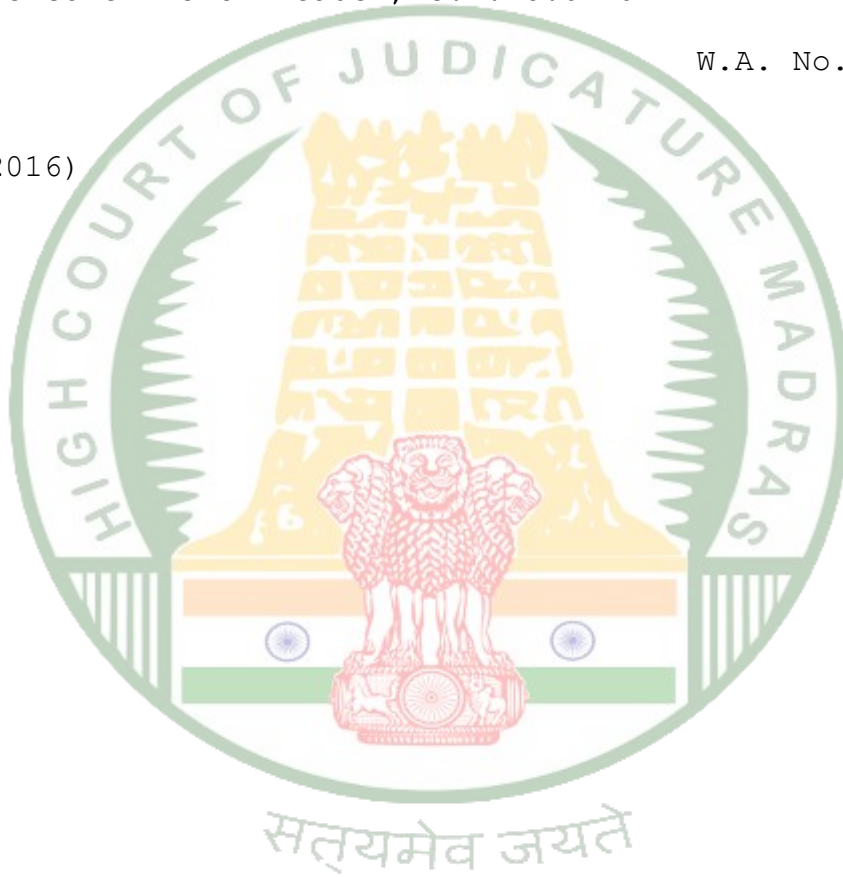
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+lcc to the Government Pleader, S.R.No.8229

W.A. No.127 of 2016

RSK(CO)
CA(19/02/2016)



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