

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2016

CORAM

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

W.A.No.191 of 2016
and
C.M.P.No.2727 of 2016

1. The Government of Tamil Nadu
rep. by its Principal Secretary to Government,
Rural Development and Panchayat Raj
Department, Fort St. George,
Chennai - 9.
 2. The Principal Secretary to Government
of Tamil Nadu,
Finance Department,
Fort St. George,
Chennai-9.
 3. The Commissioner of Rural Development
and Panchayat Raj,
Panagal Building, Saidapet,
Chennai - 15.
 4. The District Collector
Dindigul District, Dindigul.
- ... Appellants

सत्यमेव जयते
vs.

- 1.P.Sangupillai
 - 2.A.Ghouse Mohideen
 - 3.K.Subramanian
 - 4.The Principal Accountant General (A&E),
Tamil Nadu, No.361, Anna Salai,
Chennai-600 018.
- ... Respondents

Appeal filed under Clause 15 of Letters Patent against the order dated 23.07.2014 made in W.P.No.19624 of 2014.

W.P.No.19624 of 2014 : 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 (PA4) Department dt 12.7.2013 of the 1st respondent and quash the same in so far it relates to the petitioner and further direct the respondents to count 50% of the services rendered by the petitioners in the post of part time Panchayat Clerk along with regular service for the purpose of pension in accordance with G.O.Ms. No.39 Rural Development Department and Panchayat Raj dt 13.6.2011.

For Appellants : Ms.A.Srijayanthi,
Special Government Pleader

For Respondents : Mr.V.Suthakar

JUDGMENT

(Judgment of the Court was delivered by SATISH K.AGNIHOTRI, J.)

Mr.V.Suthakar, learned counsel accepts notice for respondents 1 and 2. Notice in respect of respondents 3 and 4 is dispensed with at this stage inasmuch as no order prejudicial to their interest is passed in this writ petition.

2.Assailing the order dated 23 July 2014 passed in W.P.No.19624 of 2014, whereunder the writ petition was allowed, the State has come up with the instant writ appeal.

3.The brief facts are that the writ petitioners/first respondents 1 to 3 herein were appointed as Part Time Panchayat Clerks in the respective panchayat Board in Dindigul District on 1st June, 1972, 1st July, 1982 and 1st January 1973 respectively. Thereafter, they were absorbed and appointed as Junior Assistants with effect from 1st March, 1995, 27th October, 1999 and 19th August, 1985 respectively. Subsequently, the writ petitioners were promoted as Assistant and retired from service on 30th April, 2006, 31st March, 2013 and 30th April, 2013 respectively. The State Government took a policy decision by G.O.Ms.No.39 Rural Development and Panchayat (E5) Department dated 13 June 2011, 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, whereunder counting of 50% of service in case of Part Time Clerks was withdrawn.

4. In the case on hand, indisputably, the writ petitioners/ respondents 1 to 3 were absorbed as Junior Assistant before 01 April 2003, and also retired from service. Thus the writ petitioners/ respondents 1 to 3 are entitled to the benefit as granted in G.O.Ms.No.39 Rural Development and Panchayat (E5) Department dated 13 June 2011 and the subsequent Government Order in G.O.Ms.No.77 Rural Development and Panchayat Raj Department dated 12 July 2013, would not be applicable for those employees, who were entitled to the benefit before issuance of the said G.O.Ms.No.77 dated 12 July 2013.

5. The learned single Judge has rightly come to the conclusion that 50% of the service period 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 contrary view other than the one taken by the learned single Judge.

6. With the aforesaid observations, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS II)

//True Copy//

Sub Assistant Registrar

vvk

To

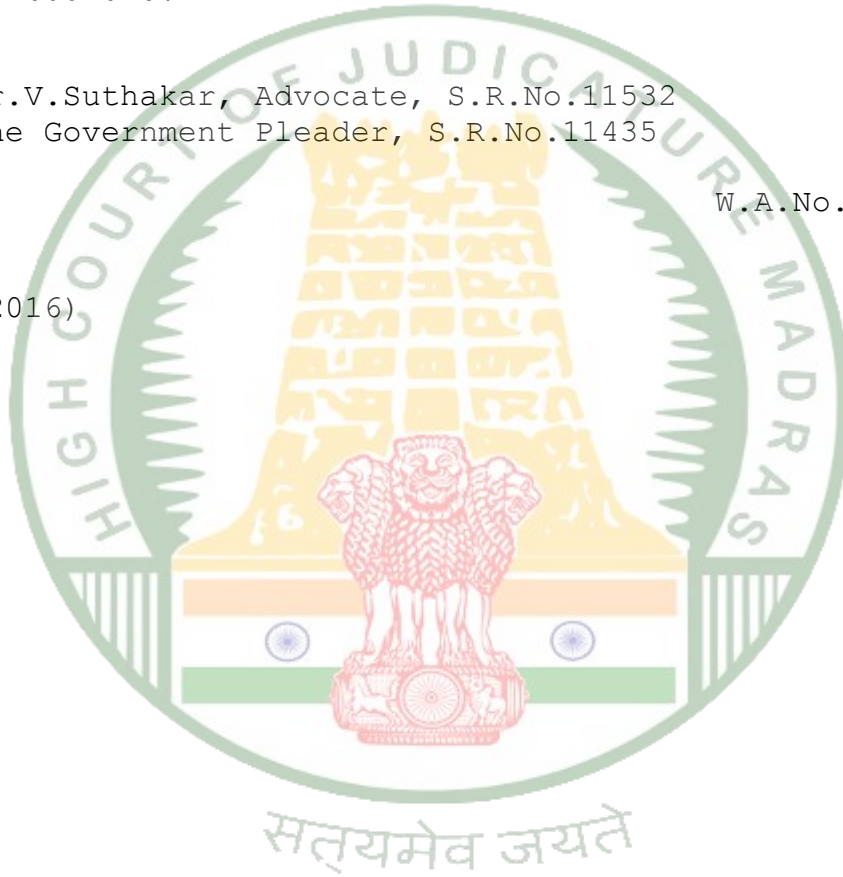
1. The Secretary to Government,
The Government of Tamil Nadu
Rural Development and Panchayat Raj
Department, Fort St. George,
Chennai - 9.
2. The Principal Secretary to Government
of Tamil Nadu,
Finance Department,
Fort St. George,
Chennai-9.

3. The Commissioner of Rural Development
and Panchayat Raj,
Panagal Building, Saidapet,
Chennai - 15.
4. The District Collector
Dindigul District, Dindigul.
5. The Principal Accountant General (A&E),
Tamil Nadu, No.361, Anna Salai,
Chennai-600 018.

+1cc to Mr.V.Suthakar, Advocate, S.R.No.11532
+1cc to the Government Pleader, S.R.No.11435

W.A.No.191 of 2016

SNS (CO)
CA(17/03/2016)



WEB COPY