

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2016

CORAM

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

W.A.No.197 of 2016
and
C.M.P.No.2929 of 2016

- 1.The Government of Tamil Nadu
rep. by its Secretary to Government,
Rural Development and Panchayat Raj
Department, Fort St. George,
Chennai - 9.
- 2.The Commissioner of Rural Development
and Panchayat Raj,
Panagal Building, Saidapet,
Chennai - 15.
- 3.The District Collector
(Panchayat Development Section)
Tirunelveli District, Tirunelveli. ... Appellants
- Vs.
- 1.M.Thavamani
- 2.The Principal Accountant General of
Tamil Nadu
(Accounts and Entitlements),
861, Anna Salai, Chennai - 18. .. Respondents

Appeal filed under Clause 15 of Letters Patent against the order dated 23.09.2014 made in W.P.No.12921 of 2013.

Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records pertaining to order dated 12.4.12 bearing No.Pen 2/V/REv/30200934/11-12/ADK/28 of the fourth respondent herein and quash the same and further direct the respondents directing the respondents to count 50% of the service rendered in the post of part time Panchayat Clerk by the petitioner between 01.07.1971 and 21.01.1993 together with regular service for the purpose of pension.

For Appellants .. Ms.A.Srijayanthi,
Spl. Govt. Pleader

JUDGMENT

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

Notice to the respondents is dispensed with at this stage, as no adverse order is passed against them in this writ appeal. With the consent of the learned Special Government Pleader appearing for the appellants, the writ appeal is taken up for final disposal at the stage of admission.

2.Assailing the order dated 23 September 2014 passed in W.P.No.12921 of 2013, whereunder the writ petition was allowed, the State has come up with the instant writ appeal.

3.The brief facts are that the writ petitioner/first respondent herein was appointed as Part Time Panchayat Clerk at Inamkoilpatti Panchayat, Vasudevanallur Panchayat Union, Tirunelveli District. Thereafter, he was absorbed and appointed as Junior Assistant with effect from 22 January 1993. Subsequently, the writ petitioner/first respondent was promoted as Assistant and retired from service on 31 May 2009. 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 petitioner/first respondent was absorbed as Junior Assistant before 01 April 2003, i.e. on 01 January 1991 and also retired from service. Thus the writ petitioner/first respondent is 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/-
Asst. Registrar

/true copy/

Sub Asst. Registrar

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To

1. The Principal Accountant General of
Tamil Nadu
(Accounts and Entitlements),
861, Anna Salai, Chennai - 18.
2. The Secretary to Government
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4. The District Collector
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Tirunelveli District, Tirunelveli.

1 cc to Government Pleader, Sr. 12596

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