IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2016

CORAM

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

W.A.No.206 of 2016
and
C.M.P.No.2945 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.S.Velu

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.12924 of 2013.

W.P.No.12924 of 2013 Petition filed under Article 226 of the constitution of India praying this Honourable Court to issue a writ of certiorarifid mandamus calling for the records pertaining to order dated 06.11.2012 bearing No.Pen 2/V/40204543/Rev/2012-2013/ADK/387 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 15.08.1965 and 30.12.1990 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.12924 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 Pottalpudur Panchayat, Vasudevanallur Panchayat Union, Tirunelveli District. Thereafter, he was absorbed and appointed as Junior Assistant with effect from 01 January 1991. Subsequently, the writ petitioner/first respondent was promoted as Assistant and retired from service on 29 February 2000. 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 aforestated observations, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II )

/true copy/

Sub Asst. Registrar

mmi

To

The Principal Accountant General of
Tamil Nadu
(Accounts and Entitlements),
861, Anna Salai, Chennai - 18.

1 cc to Government Pleader, Sr. 12080

W.A.No.206 of 2016

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