

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2016

CORAM:

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

W.A.No.225 of 2016 and C.M.P.No.3549 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 District Collector
Krishnagiri District
- vs.
- 1 M. Muniraj
- 2 The Principal Accountant General (A & E)
Tamil Nadu
361 Anna Salai
Chennai 600 018
- Appellants
- Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 01.09.2014 made in W.P.No.23497 of 2014.

Writ Petition filed Under Article 226 of the Constitution of India praying for the issuance of 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 12.7.2013 of the first respondent and the consequential communication from the 3rd respondent herein dated 24.2.2014 bearig PO3/10310308/4/RO310308 in so far relates to not counting the services rendered by the petitioner in part time Panchayat clerk and full time Panchayat Assistant along with regular service for the purpose of pension and direct the respondents to count 50% of the services rendered in the post of part time panchayat clerk from 1.7.1985 till 23.1.1991 as well as full time Panchayat Assistant service from 24.1.1991 till 28.12.2000 along with regular service for the purpose of granting pension.

For appellants

Mrs.A.Srijayanthi

Spl. Govt. Pleader

For R1

Mr.V.Suthakar

JUDGMENT

(delivered by SATISH K.AGNIHOTRI, J.)

Mr.V.Suthakar, learned counsel, accepts notice for the first respondent.

2 Assailing the order dated 01 September 2014 passed in W.P.No.23497 of 2014, whereunder, the writ petition was allowed, the State has come up with the instant writ appeal.

3 The brief facts of the case are that the respondent was appointed as a Part Time Panchayat Clerk in the Jekkeri Village Panchayat, Kelamangalam Block on 01 July 1985. On 24 January 1991, he was appointed as Full Time Panchayat Assistant. Thereafter, on 29 December 2000, he was appointed as Junior Assistant. Subsequently, he retired from service on 31 October 2013.

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 respondent was absorbed as Junior Assistant before 01 April 2003 and also retired from service. Thus, the respondent 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.

6 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 view contrary to the one taken by the learned single Judge.

With the aforesaid observations, the writ appeal stands dismissed. No costs. Consequently, connected C.M.P. is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

- 1 The Secretary to Government,
Rural Development and Panchayat Raj Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 9.
2. The District Collector,
Krishnagiri District.
3. The Principal Accountant General,
(A & e) TamilNadu,
361, Annasalai,
Chennai 600 018.

+1cc to Mr.V.Suthakar, Advocate Sr.14841
+1cc to the Government Pleader Sr.14945

WEB COPY

W.A.No.225 of 2016

msm(CO)
srg(18/03/2016)