

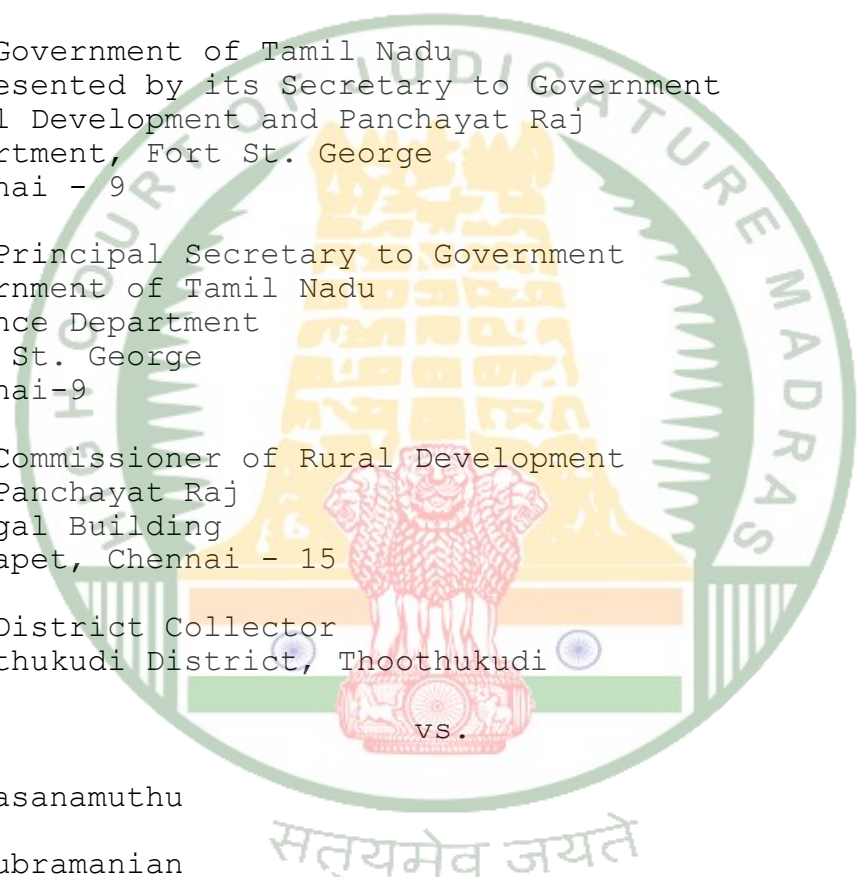
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2016

CORAM

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

W.A. No.259 of 2016 and C.M.P. No.4370 of 2016

- 
- 1 The Government of Tamil Nadu
represented by its Secretary to Government
Rural Development and Panchayat Raj
Department, Fort St. George
Chennai - 9
- 2 The Principal Secretary to Government
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
Thoothukudi District, Thoothukudi
- vs.
- 1 V. Masanamuthu
- 2 P. Subramanian
- 3 K. Ponnambalam
- Appellants
- Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 30.06.2014 made in W.P.No.32579 of 2013.

WP.No.32579/13:Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to Para 4(b) of G.O. Ms. No.77 Rural Development and Panchayat Raj (PA4) dept. dt. 12.07.13 of the first respondent and quash the same in so far it relates to the Petitioner and futher 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 Dept. and Panchayat Raj dt. 13.6.11

For appellants	Mrs.A.Srijayanthi
	Spl. Govt. Pleader
For respondents	Mr.V.Suthakar

JUDGMENT

(delivered by SATISH K.AGNIHOTRI, J.)

Mr.V.Suthakar, learned counsel, accepts notice for respondents 1 to 3.

2. Assailing the order dated 30 June 2014 passed in W.P.No.32579 of 2013, whereunder, the writ petition was allowed, the State has come up with the instant writ appeal.

3. To avoid prolixity, the parties are referred to as per their arraignment in the instant writ appeal.

4. The brief facts are that the respondents were appointed as Part Time Panchayat Clerks in the respective Panchayat Boards in Thoothukudi District on 19 March 1986, 20 May 1961 and 01 January 1961 respectively. Thereafter, they were absorbed and appointed as Junior Assistants with effect from 17 December 1999, 27 January 1986 and 27 January 1986 respectively. Subsequently, on reaching the age of superannuation, they retired from service on 31 January 2002, 31 March 1994 and 30 September 1989, respectively. The State Government took a policy decision by G.O.Ms.No.39, Rural Development and Panchayat (E5) Department dated 13 June 2011 (for brevity "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, G.O. Ms.No.39, 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 brevity "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 respondents were absorbed as Junior Assistants before 01 April 2003, and they also retired from service. Thus, the respondents are 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 for 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

cad

To

- 1 The Secretary to Government
Rural Development and Panchayat Raj
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+1 cc to M/s.Suthakar Advocate sr.16219
+1 cc to Government Pleader sr.15757

W.A.No.259 of 2016

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