

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2016

CORAM

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

W.A.No.345 of 2016
and
C.M.P.No.5124 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 District Collector,
Erode District, Erode.
4. The District Collector,
Tiruppur District, Tiruppur. ... Appellants/Respondents

Vs.

- 1.P.Dhandapani
 - 2.P.Palanisamy
 - 3.A.Jothinath
 - 4.G.Krishnamoorthy
 - 5.S.Balasubramanian
 - 6.R.Uthamaraj
 - 7.K.K.Kandasamy
 - 8.R.Balasubramanian
 - 9.M.V.Thangavel
 - 10.A.Easwaramoorthy
 - 11.S.Soundararajan
 - 12.R.Rajaganapathy ... Respondents 1 to 12/Petitioners
- 13.The Principal Accountant General of
Tamil Nadu
(Accounts and Entitlements),
361, Anna Salai, Chennai-18 ... 13th Respondents/5th Respondent

Appeal filed under Clause 15 of Letters Patent against the
order dated 01.07.2014 made in W.P.No.23848 of 2013.

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus directing the respondents 3 to 5 herein to follow the instructions contained in the letter bearing No.10386/ PA4/ 2009-13 dated 13.2.2012 of the 1st respondent by making necessary entries in the service register by counting 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 and grant pension accordingly.

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.

2.Assailing the order dated 01 July 2014 passed in W.P.No.23848 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 petitioners/respondents 1 to 12 herein were appointed as Part Time Panchayat Clerks in various village panchayats on different dates. Thereafter, they were absorbed and appointed as Junior Assistants. Subsequently, the writ petitioners/ respondents 1 to 12 were promoted as Assistants. Respondents 1 and 8 viz., P.Dhandapani and R.Balasubramanian retired from service on 30 June 2013 and 31 December 2010 respectively. Respondents 2, 3 to 7 and 9 to 12 are still in service. 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 of 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 12 were absorbed as Junior Assistant before 01 April 2003. Thus the writ petitioners/respondents 1 to 12 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.
mmi

s/d-
Assistant Registrar(CS-VII)

True Copy

Sub-Assistant Registrar

To

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

+ 1 cc to Govt.Pleader SR 18726

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