

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2016

CORAM:

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

W.A.No.376 of 2016 and C.M.P.No.5539 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 of Tamil Nadu
Finance Department
Fort St. George
Chennai 600 009
- 3 The Commissioner of Rural Development
and Panchayat Raj
Panagal Building
Saidapet, Chennai 600 015
- 4 The District Collector
Krishnagiri District, Krishnagiri Appellants/
Respondents1to4
vs.
- 1 M. Mohan
- 2 The Principal Accountant General (A & E)
Tamil Nadu
361, Anna Salai
Chennai 600 018 Respondents/Petitioner/
5th Respondent

Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 06.08.2014 made in W.P.No.21033 of 2014.

WP.NO.21033 of 2014:To call for the records pertaining to
Paragraph 4(b) of G.O.Ms.No.77 Rural Development and Panchayat

Raj (PA4) Department dated 12.07.2013 of the first respondent and the consequential communication from the 5th respondent herein dated 25.06.2014 bearing P03/10312178/ 3/R0312178 and quash the same in so far relates to not counting the services rendered by the petitioner in part time Panchayat Clerk along with regular service for the purpose of pension and direct the respondents to count 50% of services rendered in the post of Panchayat Clerk from 15.10.1982 till 13.01.1999 along with regular service for the purpose of granting pension.

For appellants Mrs.A.Srijayanthi

Spl. Govt. Pleader

JUDGMENT

(delivered by SATISH K.AGNIHOTRI, J.)

Assailing the order dated 06 August 2014 passed in W.P.No.21033 of 2014, whereunder, the writ petition was allowed, the State has come up with the instant writ appeal.

2 The brief facts of the case are that the first respondent was appointed as a Part Time Panchayat Clerk in Thally Panchayat Union with effect from 15 October 1982. Subsequently, by virtue of G.O. Ms.No.962, Rural Development Department dated 26 November 1990, he was appointed as Panchayat Assistant at Devanapalli Village Panchayat with effect from 23 January 1991 on full time basis. Thereafter, he was appointed as Junior Assistant and he retired on 31 March 2004 on reaching the age of superannuation.

3 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.

4 In the case on hand, indisputably, the first respondent was absorbed as Panchayat Assistant before 01 April

2003, subsequent to which he was appointed as Junior Assistant and he also retired from service. Thus, the first 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.

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 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
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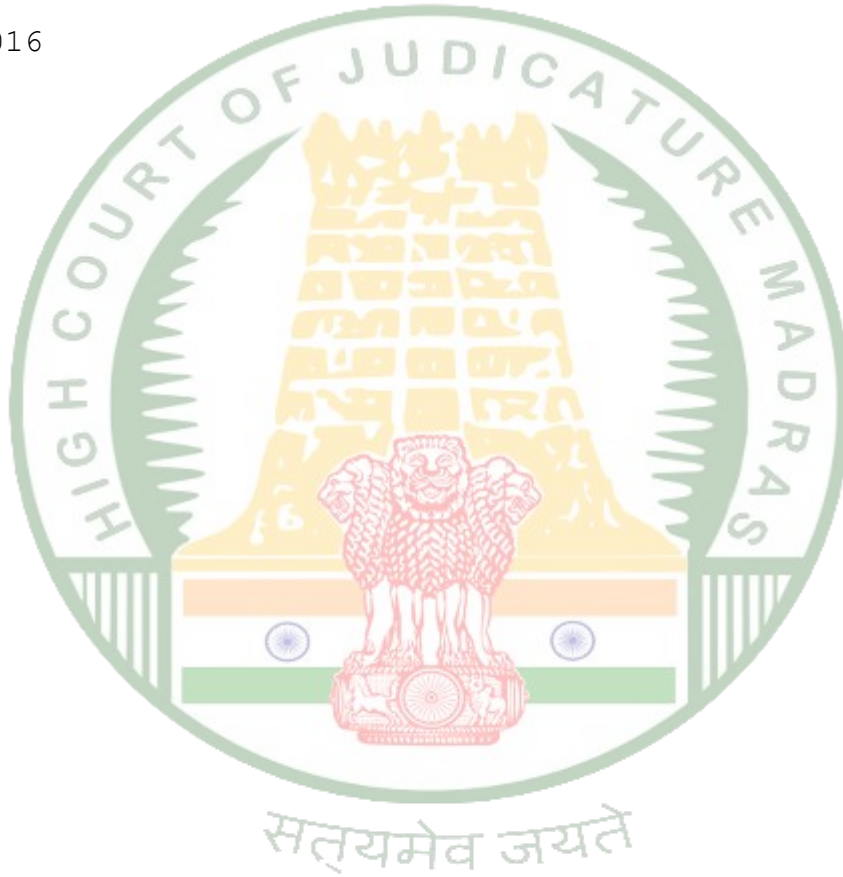
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5. The Principal Accountant General (A & E)
Tamil Nadu
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Chennai-600 018

+1 cc to Government Pleader vide sr.20957

W.A.No.376 of 2016

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