

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2016

CORAM:

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

W.A.No.407 of 2016 and C.M.P.No.6051 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 Commissioner of Rural Development
and Panchayat Raj
Panagal Building
Saidapet, Chennai 600 015
 - 3 The District Collector
(Panchayat Development Section)
Tirunelveli District, Tirunelveli. ...Appellants/
Respondents 1 to 3
- vs.
- 1 V. Subramanian .. 1st Respondent/Petitioner
 - 2 The Principal Accountant General of Tamil Nadu
(A & E)
361, Anna Salai
Chennai 600 018 .. 2nd Respondent/4th Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 23.09.2014 made in W.P.No.12923 of 2013 presented under Article 226 of the constitution of India to issue a Writ of certiorarified Mandamus to call for the records pertaining to order dated 03.01.2013 bearing No.Pen 2/VI/10209197/Rev/12-13/ADK 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 01.10.1969 and 31.12.1990 together with regular service for the purpose of pension.

For appellants Mrs.A.Srijayanthi
 Spl. Govt. Pleader

For Respondents Mr. V. Suthakar - R1

JUDGMENT

(delivered by SATISH K.AGNIHOTRI, J.)

Assailing the order dated 23 September, 2014 passed in W.P.No.12923 of 2013, 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 Sivanthipuram Panchayat, Ambasamudram Panchayat Union with effect from 01 October 1969. Subsequently, he was appointed, by way of transfer, as a Junior Assistant with effect from 01 January 1991. Thereafter, he was promoted as Assistant and Extension Officer and retired from service on 28 February 2005 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 Junior Assistant before 01 April 2003, subsequent to which he was Promoted as Assistant and Extension Officer 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.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

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(A & E)
361, Anna Salai
Chennai 600 018.

+1 cc to Mr.V.Suthakar, Advocate, sr.21899

W.A.No.407 of 2016

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kra 21.04.2016