

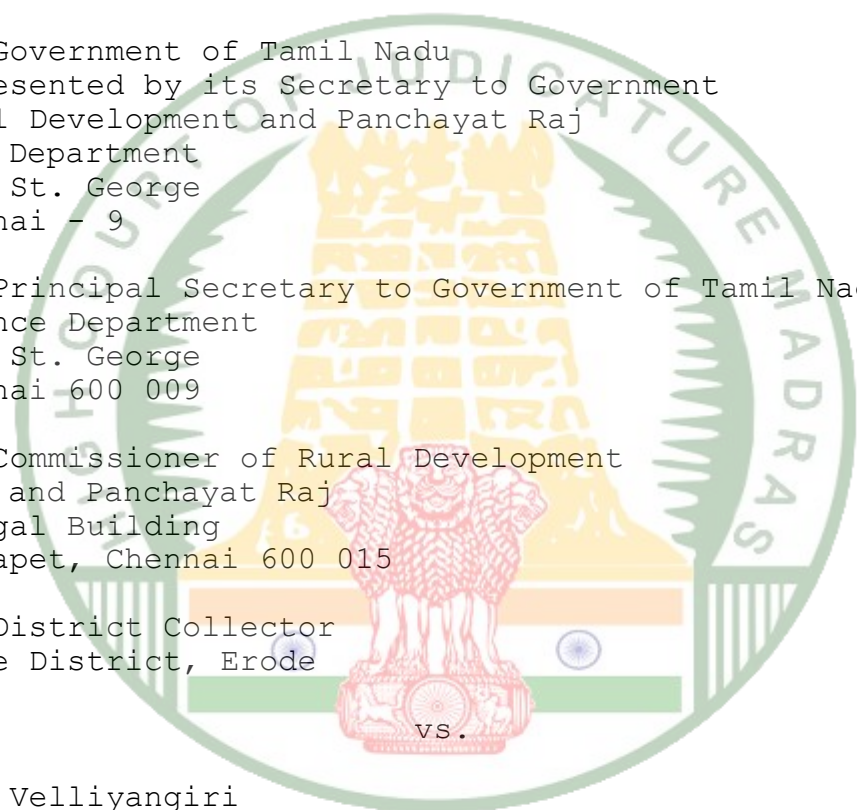
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2016

CORAM:

THE HON'BLE Mr. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE Mr. JUSTICE V. BHARATHIDASAN

W.A.No.431 of 2016 and C.M.P.No.6287 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
Erode District, Erode
- vs.
- 1 P.V. Velliyangiri
- 2 G.P.M. Rajamanickam
- 3 The Principal Accountant General (A & E)
Tamil Nadu
361, Anna Salai
Chennai
- Appellants
- Respondents
- सत्यमेव जयते
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Writ Appeal filed under Clause 15 of Letters Patent against
the order dated 27.06.2014 made in W.P. No.26785 of 2013.

WP.No.26785 of 2013:Petition filed Under Article 226 of the Constitution of India to issue a 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 (PA4) Department dt 12.7.2013 of the 1st respondent and quash the same and further 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 Department and Panchayat Raj dt 13.6.2011.

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

For RR 1 & 2 Mr. V. Suthakar

JUDGMENT

(delivered by SATISH K.AGNIHOTRI, J.)

Mr. V. Suthakar, learned counsel, accepts notice for the respondents 1 and 2.

2 Assailing the order dated 27 June 2014 passed in W.P.No.26785 of 2013, whereunder, the writ petition was allowed, the State has come up with the instant writ appeal.

3.1 The brief facts of the case are that the respondents 1 and 2 were appointed as Part Time Panchayat Clerks in Soundarppur Village Panchayat, Gobichettypalayam Panchayat Union and Puduperkadavu Village Panchayat, Sathyamangalam Panchayat Union respectively on 01 October 1971 and 01 September 1974 respectively.

3.2 Subsequently, by virtue of G.O. Ms.No.962, Rural Development Department dated 26 November 1990, the first respondent was appointed as Panchayat Assistant with effect from 14 January 1997 and further promoted as Assistant with effect from 19 August 2004. Ultimately, on reaching the age of supeannuation, he retired from service on 31 December 2009.

3.3 Likewise, the second respondent was appointed as Junior Assistant on 27 December 1990 and on reaching the age of superannuation, he retired from service as Cashier on 30 June 2007.

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 respondents 1 and 2 were absorbed as Junior Assistant before 01 April 2003, subsequent to which the first respondent was promoted as Assistant and retired from service on 31 December 2009 and the second respondent retired as Cashier on 30 June 2007. Thus, the respondents 1 and 2 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 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 put in by the respondents 1 and 2 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(CS-III)

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Sub-Assistant Registrar

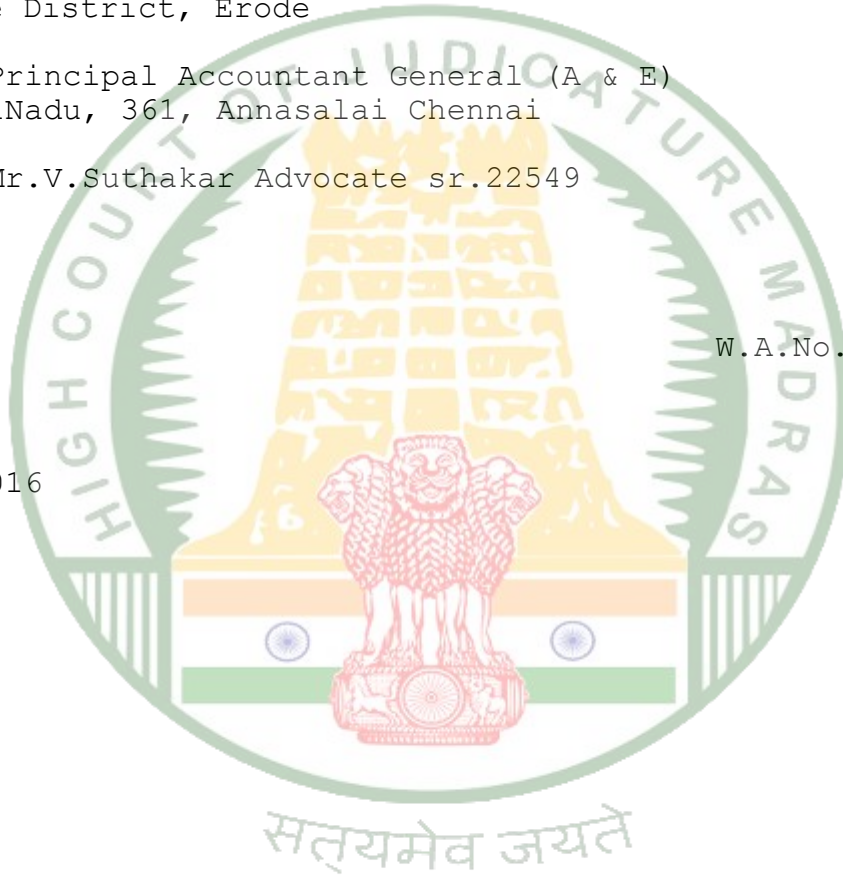
To

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 5. The Principal Accountant General (A & E)
TamilNadu, 361, Annasalai Chennai
- +1 cc to Mr.V.Suthakar Advocate sr.22549

W.A.No.431 of 2016

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