

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2016

CORAM

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

THE HON'BLE Mr. JUSTICE V.BHARATHIDASAN

W.A.No.432 of 2016

and

C.M.P.No.6294 of 2016

1. The Director of Local Fund Audit,  
4th Floor, Kuralagam,  
Chennai - 108.
  2. The Director of Rural Development,  
Panagal Building, Saidapet,  
Chennai - 15.
  3. The District Collector,  
Tirunelveli District,  
Tirunelveli.
- ... Appellants/Respondents

Vs.

P.Thiraviya Sundararaj (deceased)

- 1.S.Ganesan
- 2.S.Velu
- 3.V.Azhagaiah
- 4.T.Annamalai
- 5.T.Pothikasalam
- 6.Gowri
- 7.Meena

... Respondents/Petitioners

Appeal filed under Clause 15 of the Letters Patent against the order dated 15.04.2014 made in W.P.No.24465 of 2005.

W.P.No.24465 of 2005 : Writ Petition filed under Article 226 of the Constitution of India for a Writ of Mandamus, having been transferred from the file of the Tamilnadu Administrative tribunal in O.A.No.7750 of 1998, is filed to direct the respondents to count the service rendered in the post of part time clerk in the village panchayat for grant of pension, otherwise declare that the applicants are deemed to have been

appointed as Junior Assistant (w.e.f.) 12.4.1984 (i.e) date of issuance of G.O.Ms.585 RD & LA for the purpose of counting the period of service in the cadre of Junior Asst. for the purpose of granting pension.

For Appellants : Ms.A.Srijayanthi,  
Special Government Pleader

For Respondents : Mr.V.Suthakar for R2 and R4 to R7

#### JUDGMENT

(Judgment of the Court was delivered by SATISH K.AGNIHOTRI, J.)

Mr.V.Suthakar, learned counsel accepts notice on behalf of respondents 2 and 4 to 7. Notice to the other 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 and the learned counsel appearing for respondents 2 and 4 to 7, the writ appeal is taken up for final disposal at the admission stage itself.

2.Assailing the order dated 15 April 2014 passed in W.P.No.24465 of 2005, 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 1 to 4 were appointed as Part Time Panchayat Clerks in various village panchayats on different dates. Thereafter, they were absorbed and appointed as Junior Assistants. Subsequently, writ petitioners 1 and 3 retired from service and writ petitioners 2 and 4 were promoted as Assistants and retired from service. Pending the writ petition, the first writ petitioner - P.Thiraviya Sundararaj died and the legal representatives of the deceased first writ petitioner were brought on record as writ petitioners 5 to 8. 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 1 to 4 were absorbed as Junior Assistant before 01 April 2003. Thus the writ petitioners 1 to 4 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.

Sd/-  
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of Local Fund Audit,  
4th Floor, Kuralagam,  
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2. The Director of Rural Development,  
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3. The District Collector,  
Tirunelveli District,  
Tirunelveli.

+1cc to Mr.V.Suthakar, Advocate, S.R.No.22943  
+1cc to the Government Pleader, S.R.No.23215

W.A.No.432 of 2016

MG(CO)  
CA(25/04/2016)