

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.09.2016
CORAM
THE HONOURABLE MR. JUSTICE R.SUBBIAH
Writ Petition No.31251 of 2016
and
W.M.P.No.27125 of 2016

C.Dharmaraj

... Petitioner

vs.

1. The Government of Tamil Nadu,
rep. by its Principal Secretary to Government,
Rural Development & Panchayat Raj Department
Fort St. George,
Chennai - 600 009.
 2. The Director of Rural Development &
Panchayat Raj,
Panagal Building,
Saidapet, Chennai - 600 015.
 3. The Principal Accountant General
(A & E) Tamil Nadu,
No.361, Anna Salai,
Chennai - 600 018.
 4. The District Collector,
Tirunelveli District,
Tirunelveli.
- ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for 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 department dated 12.07.2013 of the first respondent 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% services rendered in the post of panchayat clerk from 01.06.1972 till 20.01.1993 along with regular service for the purpose of granting pension.

For Petitioner : Mr.V.Suthakar

For Respondents : Mr.A. Zakir Hussain,
Government Advocate,
for R1, R2 & R4

: Mr. T.S.Selvarani,
for R3

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a certiorarified mandamus to call for the records pertaining to paragraph 4 (B) of G.O.Ms.No.77 Rural Development and Panchayat Raj department dated 12.07.2013 of the first respondent and quash the same in so far relating to non 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 01.06.1972 till 20.01.1993 along with regular service for the purpose of granting pension.

3. It is the case of the petitioner that he was initially appointed as a part time panchayat clerk in Achankuttam Panchayat, with effect from 01.06.1972. Thereafter, he was working as Panchayat Assistant from 01.01.1991. Subsequently, he was promoted as Junior Assistant on 21.01.1993 and retired from service on 29.02.2008 on attaining the age of superannuation.

4. The 4th respondent granted pension only by calculating his regular government service from 21.01.1993 till 29.02.2008 and refused to take 50% of his service, viz., from 01.06.1972 to 20.01.1993, by virtue of G.O.Ms.No.77 Rural Development Department dated 12.07.2013 issued by the first respondent. In the said G.O., the guidelines issued in G.O.Ms.No.39 Rural Development Department and Panchayat Raj dated 13.06.2011 has been modified to the effect that the services rendered by part time Panchayat Clerk, Panchayat Assistant Grade-I & II, who worked in part time post shall not be taken into account, for the purpose of pension. Hence, the petitioner has come forward with the present petition.

5. The learned counsel for the petitioner submitted that W.P.Nos.23847, 24338, 26583, 26785 and 28878 of 2013 has been filed to quash the paragraph 4(b) of G.O.Ms.77 Rural

Development and Panchayat Raj (PA4) Department dated 12.07.2013 issued by the first respondent and to count 50% of the services rendered by them 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 dated 13.06.2011. The said Writ petitions were allowed by this Court on 27.06.2014. The Writ Appeal in W.A.No.259 of 2016 has been preferred by the Government, as against the order of the learned Single Judge and the same was also dismissed by this Court on 10.03.2016. Thus, the learned counsel for the petitioner prays this Court to give the same direction to the respondents to count 50% of service rendered in part time in the Panchayat clerk from 01.06.1972 to 20.01.1993 along with regular service for the purpose of granting pension.

6. Heard the submissions of the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1, 2 & 4 and the learned counsel appearing for R3.

7. Since already this Court has quashed paragraph 4(b) of G.O.Ms.No.77 Rural Development and Panchayat Raj department dated 12.07.2013 of the first respondent, there is no necessity to consider the said prayer. However, the petitioner is directed to give a representation before the 4th respondent along with a copy of the order within a period of two weeks from the date of receipt of a copy of the Order. On receipt of the same, the concerned respondents are directed to pass appropriate order, in the light of the judgment made in W.A.Nos.259 of 2016 and 612 of 2016 within a period of six weeks thereafter.

8. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

mrp

To

1. The Government of Tamil Nadu,
rep. by its Principal Secretary to Government,
Rural Development & Panchayat Raj Department
Fort St. George,
Chennai - 600 009.
 2. The Director of Rural Development &
Panchayat Raj,
Panagal Building,
Saidapet, Chennai - 600 015.
 3. The Principal Accountant General
(A & E) Tamil Nadu,
No.361, Anna Salai,
Chennai - 600 018.
 4. The District Collector,
Tirunelveli District,
Tirunelveli.
- +4 ccs to M/s.V.Suthakar Advocate sr 56009
+1 cc to M/s.Hema Muralikrishnan Advocate sr 55655

W.P.No.31251 of 2016

aa10/11/2016

सत्यमेव जयते

WEB COPY