

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.42229 of 2016

and W.M.P.No.36137 of 2016

K.Kumarasamy

... Petitioner

Vs

- 1 The Government of Tamil Nadu
Rep. by its Principal Secretary to Govt.
Rural Development & Panchayat Raj Dept.
Fort St.George Chennai 600 009.
- 2 The Director of Rural
Development & Panchayat Raj Pangal Building
Saidapet Chennai 600 015..
- 3 The Principal Accountant
General (A&E) Tamil Nadu No.361 Anna Salai
Chennai 600018.
- 4 The District Collector
Tiruppur District Tiruppur. ... 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 12.7.2013 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 1.9.1970 till 27.12.1990 along with regular service for the purpose of granting pension.

For Petitioner : Mr.V.Suthakar

For Respondents : Mr.S.N.Parthasarathy,
Govt. Advocate.

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 challenging the proceedings of the first respondent pertaining to Paragraph 4(b) of G.O.Ms.No.77, Rural Development and Panchayat Raj department dated 12.7.2013 in so far relates to not counting the services rendered by him in part time Panchayat Clerk along with regular service for the purpose of pension and consequently, to direct the respondents to count 50% services rendered in the post of Panchayat Clerk from 1.9.1970 till 27.12.1990 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 Jamin Kottampatti Village Panchayat, with effect from 1.9.1970 and was promoted as Junior Assistant on 27.12.1990 and retired from service on 31.5.2008 on attaining the age of superannuation. While granting pension, the fourth respondent granted pension only by calculating his regular Government service from 28.12.1990 to 31.5.2008 and refused to take 50% of his service, viz., from 1.9.1970 till 27.12.1990, by virtue of G.O.Ms.No.77 Rural Development Department dated 12.7.2013 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 13.6.2011 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.

4. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner submitted that similarly placed persons filed writ petitions before this Court in W.P.Nos.23847, 24338, 26583, 26785 and 28878 of 2013 to quash paragraph 4(b) of G.O.Ms.77 Rural Development and Panchayat Raj (PA4) Department dated 12.7.2013 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 13.6.2011. The said Writ petitions were allowed by this Court on 27.6.2014. The Writ Appeal in W.A.Nos.259 and 612 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 10.3.2016. Thus, the learned counsel appearing 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 from 1.9.1970 till 27.12.1990 along with regular service for the purpose of granting pension.

5. I have also heard the learned Government Advocate, who has taken notice on behalf of the respondents.

6. Since already this Court has quashed paragraph 4(b) of G.O.Ms.No.77 Rural Development and Panchayat Raj department dated 12.7.2013 of the first respondent, I am of the opinion, there is no necessity to consider the prayer made in the present writ petition. However, the petitioner is directed to give a representation to the fourth respondent along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the concerned respondents are directed to pass appropriate orders, on merits and in accordance with law and also in the light of the judgment made in W.A.Nos.259 and 612 of 2016 within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

- 1 The Principal Secretary to Govt.
Rural Development & Panchayat Raj Dept.
Fort St.George Chennai 600 009.
- 2 The Director of Rural
Development & Panchayat Raj Pangal Building
Saidapet Chennai 600 015.
- 3 The Principal Accountant
General (A&E) Tamil Nadu No.361 Anna Salai
Chennai 600018.
- 4 The District Collector
Tiruppur District Tiruppur.

+1 cc to Mr.V,Suthakar, Advocate SR.NO. 71736/16
+1 cc to Govt. Pleader, SR.NO. 71281/16

W.P.No.42229 of 2016

MMP 03.01.2017