

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.02.2017

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The Hon'ble Mr.Justice M.Sathyanarayanan

W.P.No.4250 of 2017
and
W.M.P.No.4402 of 2017

1. K.Gunasekaran
 2. A.Amutha
- ... Petitioners

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Rural Development Department,
Secretariat, Fort, St.George,
Chennai – 600 009.
 2. The Director of Rural Development,
Panagal Maligai, Saidapet,
Chennai – 600 015.
 3. The District Collector,
Villupuram District, Villupuram.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorarified Mandamus to call for records pertaining to paragraph No.4 (b) of G.O.Ms.No.77, Rural Development and Panchayat Raj Department, dated 12.07.2013, of the first respondent, and to quash the same and to direct the respondent to count 50% service rendered in the post

of part time Panchayat Clerk along with regular service for the purpose of granting pension.

For Petitioners : Mr.A.Asuvathaman

For Respondents : Mr.R.A.S.Senthil Vel
Additional Government Pleader

ORDER

By consent, the Writ Petition is taken up for final disposal.

2. Heard Mr.A.Asuvathaman, learned counsel appearing for petitioners and Mr.R.A.S.Senthil Vel, learned Additional Government Pleader who accepts notice on behalf of respondents.

3. The first petitioner joined as Part Time Panchayat Clerk, in Olakkur Panchayat Union on 10.07.1980. Thereafter, his services were regularized, and he got his promotion as Junior Assistant on 06.01.1999, in Melmalaiyanur Panchayat Union. Thereafter, he got his further promotions as Assistant and Deputy Block Development Officer on 18.05.2007 and 16.04.2015 respectively and retired from service on 29.02.2016. The husband of the second petitioner joined the services as Part Time Panchayat Clerk on 01.10.1979, at Chenji Panchayat Union, and absorbed as Junior

Assistant on 31.12.1990 and got his further promotions as Assistant and Deputy Block Development Officer on 08.01.2007 and 01.07.2010 respectively and died in harness on 12.01.2011. The grievance expressed by the petitioner is that as per the order passed by the first respondent-State, vide G.O.Ms.No.39 of Rural and Development Department, dated 13.06.2011, persons, who were working as Part Time Panchayat Clerk, are entitled to pension and other benefits by taking into consideration 50% of the services rendered by them as Part Time Panchayat Clerk and as such, the petitioners are entitled to the said benefit and since the said benefit have not been conferred to them, they have come forward with this Writ Petition.

4. The learned counsel appearing for the petitioners would submit that the matter in issue is squarely covered by the order passed by the learned Single Judge of this Court, in W.P.Nos.21397 and 21399 of 2016, dated 23.06.2016, in the case of **(P.Sellavelu Vs. The Govt. of Tamil Nadu, rep. by Principal Secretary to Govt. Rural Development and Panchayat Raj Department, Chennai and three others)** and therefore, prays for appropriate orders.

5. Per contra, learned Additional Government Pleader for the respondents would submit that the petitioners, seeking redressal of their grievance, are yet to submit representation and as and when, such representation is submitted, it will be considered in accordance with law, as early as possible.

6. This Court heard the rival submissions and perused the materials placed before it.

7. The Single Bench of this Court, in the above cited order, has taken into consideration, the judgement passed by the Hon'ble Division Bench of this Court, in W.A.No.431 of 2016, dated 11.04.2016, where positive directions were issued, directing the respondents to count 50% of the services period put in by the petitioners therein by way of part-time employment along with regular service for the purpose of computation of pension. In this connection, it would be beneficial to refer to the relevant portion of the said order, which reads as follows:-

“ “6. It is relevant to refer to the Division Bench Judgement of this Court in W.A.No.431 of

2016, dated 11.04.2016, wherein, this Court in para Nos.4, 5 and 6 has held as follows:-

“ 4. The State Government took a policy decision by G.O.Ms.No.39 of Rural Development and Panchayat (E5) Department, dated 13.06.2011, (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.” ”

8. Though the petitioners pray for larger relief, this Court, in the light

of the above facts and circumstances and without going into the merits of the case projected by the petitioners, permits them to submit individual representation to the respondents 1 to 3 within a period of two weeks from the date of receipt of a copy of this order, and the respondents, upon receipt of the same, are directed to consider the said representation on merits and in accordance with law, by taking into consideration the above cited judgments and pass appropriate orders within a further period of ten weeks thereafter, and communicate the decision taken to the petitioners.

9. This Writ Petition is disposed of accordingly. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

21.02.2017

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Index : Yes/ No

To

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M.Sathyannarayanan.J.,

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