

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.07.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. Nos.21783 & 29206 of 2014; 8500 of 2015; 31110, 31111,
31112, 31113, 31114 of 2016;
5543, 14072 & 14983 of 2017 &
connected Miscellaneous Petitions

R.LAKSHMI ... PETITIONER in WP No.21783 of 2014
A.PRABAKARAN
A.SURESH BABU ... PETITIONERS in WP No.29206 of 2014
M.ESAKKIDURAI
C.KARUTHAPANDI
T.KARUNANIDHI ... PETITIONERS in WP No.8500 of 2015
K.ARSAN ... PETITIONER in WP No.31110 of 2016
B.RAMAMURTHY ... PETITIONER in WP No.31111 of 2016
K.KASINATHAN ... PETITIONER in WP No.31112 of 2016
K.NAGENDRAN ... PETITIONER in WP No.31113 of 2016
C.SAMPATH ... PETITIONER in WP No.31114 of 2016
J.CHANDRAN ... PETITIONER in WP No.5543 of 2017
S.VIJAYALAKSHMI ... PETITIONER in WP No.14072 of 2017
G.RAJARAM
R.SARATHYAMURTHY
T.BASKARAN
S.SATHISH ... PETITIONERS in WP No.14983 of 2017

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Vs

1 THE GOVERNMENT OF TAMILNADU
REP. BY ITS PRINCIPAL SECRETARY TO
GOVERNMENT RURAL DEVELOPMENT & PANCHAYAT
RAJ DEPARTMENT FORT ST. GEORGE CHENNAI-9

2 THE COMMISSIONER OF RURAL
DEVELOPMENT & PANCHAYAT RAJ PANAGAL
BUILDING SAIDAPET CHENNAI-15

3 THE DISTRICT COLLECTOR
KRISHNAGIRI DISTRICT KRISHNAGIRI

4 THE PRINCIPAL ACCOUNTANT
GENERAL (A & E) TAMILNADU NO.361 ANNA
SALAI CHENNAI-18

... RESPONDENT in WP No.21783 of 2014

1 THE GOVERNMENT OF TAMIL NADU
REP. BY ITS PRINCIPAL SECRETARY TO
GOVERNMENT RURAL DEVELOPMENT & PANCHAYAT
RAJ DEPARTMENT FORT ST. GEORGE CHENNAI-9.

2 THE PRINCIPAL SECRETARY TO
GOVERNMENT OF TAMIL NADU FINANCE DEPARTMENT
FORT ST. GEORGE CHENNAI-9.

3 THE COMMISSIONER OF RURAL
DEVELOPMENT & PANCHAYAT RAJ PANAGAL
BUILDING SAIDAPET CHENNAI-15.

4 THE DISTRICT COLLECTOR
KRISHNAGIRI DISTRICT KRISHNAGIRI.

... RESPONDENT in WP No.29206 of 2014

1 THE GOVERNMENT OF TAMIL NADU
REP. BY ITS PRINCIPAL SECRETARY TO
GOVERNMENT RURAL DEVELOPMENT & PANCHAYAT
RAJ DEPARTMENT FORT ST. GEORGE CHENNAI-9.

2 THE COMMISSIONER OF RURAL
DEVELOPMENT & PANCHAYAT RAJ PANAGAL
BUILDING SAIDAPET CHENNAI-15.

3 THE DISTRICT COLLECTOR
TIRUNELVELI DISTRICT TIRUNELVELI.

4 THE PRINCIPAL ACCOUNTANT
GENERAL (A & E) TAMIL NADU NO.361 ANNA
SALAI CHENNAI-18.

... RESPONDENT in WP No.8500 of 2015

1 STATE OF TAMIL NADU
REP. BY ITS SECRETARY TO GOVERNMENT RURAL
DEVELOPMENT AND PANCHAYAT RAJ DEPARTMENT
FORT ST. GEORGE CHENNAI-9.

2 DIRECTOR
COMMISSIONERATE OF RURAL DEVELOPMENT AND
PANCHAYAT RAJ PANAGAL BUILDING CHENNAI-15.

3 DISTRICT COLLECTOR
THIRUVALLUR DISTRICT THIRUVALLUR.
... RESPONDENT in WP No.31110 to 31114 of 2016

1 THE GOVERNMENT OF TAMIL NADU
REP BY ITS PRINCIPAL SECRETARY TO GOVERNMENT
RURAL DEVELOPMENT AND PANCHAYAT RAJ
DEPARTMENT FORT ST. GEORGE CHENNAI 9

2 THE DIRECTOR OF RURAL
DEVELOPMENT AND PANCHAYAT RAJ PANAGAL
BUILDING SAIDAPET CHENNAI 15

3 THE PRINCIPAL ACCOUNTANT
GENERAL (A&E) TAMIL NADU NO. 361 ANNA
SALAI CHENNAI 18

4 THE DISTRICT COLLECTOR
(PD SECTION) NILGIRI DISTRICT UDAGAMANDALAM
... RESPONDENT in WP No.5543 of 2017

1 THE GOVERNMENT OF TAMILNADU
REP. BY ITS PRINCIPAL SECRETARY TO
GOVERNMENT RURAL DEVELOPMENT & PANCHAYAT
RAJ DEPARTMENT FORT ST. GEORGE CHENNAI -
600 009.

2 THE COMMISSIONER OF RURAL
DEVELOPMENT & PANCHAYAT RAJ PANAGAL
BUILDING SAIDAPET CHENNAI - 600 015.

3 THE DISTRICT COLLECTOR
TIRUPUR DISTRICT TIRUPUR

- 4 THE PRINCIPAL ACCOUNTANT
GENERAL (A & E) TAMIL NADU NO.361 ANNA
SALAI CHENNAI - 600 018.
... RESPONDENT in WP No.14072 of 2017
- 1 THE GOVERNMENT OF TAMIL NADU
REP.BY ITS PRINCIPAL SECRETARY TO GOVT.
RURAL DEVELOPMENT & PANCHAYAT RAJ DEPARTMENT
FORT ST.GEORGE CHENNAI 600 009
- 2 THE COMMISSIONER OF RURAL
DEVELOPMENT & PANCHAYAT RAJ PANAGAL BUILDING
SAIDAPET CHENNAI 600 015
- 3 THE PRINCIPAL ACCT.GENERAL
(A&E) TAMIL NADU NO.361 ANNA SALAI CHENNAI
600 018
- 4 THE DISTRICT COLLECTOR
(PD SECTION) CUDDALORE DIST. CUDDALOR
... RESPONDENT in WP No.14983 of 2017

WP No.21783 of 2014
Petition filed under Article 226 of the Constitution of India to issue of 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 dated 12.7.2013 of the first respondent and quash the same in so far it relates to the petitioner and further direct the respondents to count 50% of the services rendered by the petitioners husband in the post of part time Panchayat clerk between 1.1.1973 till 15.11.1985 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

WP No.29206 of 2014
Petition filed under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, Calling for the records pertaining to Paragraph 4(b) of G.O.Ms.No.77 Rural Development and Panchayat Raj (PA4) Department dated 12.07.2013 of the first respondent and quash the same as illegal in so far it relates to the petitioners 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 dated 13.06.2011

WP No.8500 of 2015

Petition filed under Article 226 of the Constitution of India to issue of 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 dated 12.07.2013 of the first 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 dated 13.06.2011

WP No.31110 of 2016

Petition filed under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, calling for the records of the 1st respondent herein in G.O.Ms.No.77 Rural Development (PA-4) department dated 12.07.2013 and quash the modification issued in para 4(a) and (b) of the said G.O. insisting full time service as Panchayat Clerk for counting the said service for pension and consequently direct the respondents herein to forthwith sanction revised pension and other retirement benefits due to the petitioner herein by counting 50% of the service rendered by the petitioner herein in the post of Panchayat Clerk during 01.08.1970 to 26.12.1990 and pay arrears of difference in pension and other monetary benefits with due interest

WP No.31111 of 2016

Petition filed under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, Calling for the records of the 1st respondent herein in G.O.Ms.No.77 Rural Development (PA-4) department dated 12.07.2013 and quash the modification issued in para 4(a) and (b) of the said G.O. insisting full time service as Panchayat Clerk for counting the said service for pension and consequently direct the respondents herein to forthwith sanction revised pension and other retirement benefits due to the petitioner herein by counting 50% of the service rendered by the petitioner herein in the post of Panchayat Clerk during 01.09.1981 to 26.12.1990 and pay arrears of difference in pension and other monetary benefits with due interest

WP No.31112 of 2016

Petition filed under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, Calling for the records of the 1st respondent herein in G.O.Ms.No.77 Rural Development (PA-4) department dated 12.07.2013 and quash the modification issued in para 4(a) and (b) of the said G.O. insisting full time service as Panchayat Clerk for counting the

said service for pension and consequently direct the respondents herein to forthwith sanction revised pension and other retirement benefits due to the petitioner herein by counting 50% of the service rendered by the petitioner herein in the post of Panchayat Clerk during 01.01.1983 to 07.03.1999 and pay arrears of difference in pension and other monetary benefits with due interest

WP No.31113 of 2016

Petition filed under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, Calling for the records of the 1st respondent herein in G.O.Ms.No.77 Rural Development (PA-4) department dated 12.07.2013 and quash the modification issued in para 4(a) and (b) of the said G.O. insisting full time service as Panchayat Clerk for counting the said service for pension and consequently direct the respondents herein to forthwith sanction revised pension and other retirement benefits due to the petitioner herein by counting 50% of the service rendered by the petitioner herein in the post of Panchayat Clerk during 01.04.1976 to 10.03.1999 and pay arrears of difference in pension and other monetary benefits with due interest

WP No.31114 of 2016

Petition filed under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, Calling for the records of the 1st respondent herein in G.O.Ms.No.77 Rural Development (PA-4) department dated 12.07.2013 and quash the modification issued in para 4(a) and (b) of the said G.O. insisting full time service as Panchayat Clerk for counting the said service for pension and consequently direct the respondents herein to forthwith sanction revised pension and other retirement benefits due to the petitioner herein by counting 50% of the service rendered by the petitioner herein in the post of Panchayat Clerk during 01.01.1983 to 05.10.1995 and pay arrears of difference in pension and other monetary benefits with due interest

WP No.5543 of 2017

Petition filed under Article 226 of the Constitution of India to issue of 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 dt 12.7.2013 of the 1st 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 21.10.1982 till 30.12.1990 along with regular service for the purpose of granting pension

WP No.14072 of 2017

Petition filed under Article 226 of the Constitution of India to issue of 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 petitioners husband as part time panchayat Clerk along with regular service for the purpose of pension and direct the respondent to count 50% Services rendered by petitioners husband in the post of panchayat clerk from 01.11.1978 till 28.02.1995 along with regular service for the purpose of granting family pension

WP No.14983 of 2017

Petition filed under Article 226 of the Constitution of India to issue of 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 srvices rendered by the petitioner in part time panchayat clerk/ Panchayat assitant along with regular serice for the purpose of pension and direct the respondents to count 50% services rendered in the post of part time panchayat clerk along with regular service for the purpose of granting family pension

For Petitioner : Mr.V.Suthakar
in WP.21783/14,8500/15,
WP.5543/17,WP.14072/17
and WP.14983/17

Mr.R.Thamaraiselvan,
in WP.29206/14

Mr.V.R.Rajasekaran,
in WP.31110 to 31114/16

For Respondents : Mr.S.Gunasekaran R1 to R3
(WP.21783/14,8500/15)
T.S.Selvarani for R4 (WP.21783/14)
(WP.14072/17)

Mr.S.Gunasekaran, AGP for R1 to R4
(WP.29206/14)

Mr.V.Murali for R4 (WP.8500/15)
Mr.V.Perumal for R1 to 3
(WP.31110/16 to WP.31114/16)

Mr.S.Gunasekaran, AGP for R1,2 & 4

Mr.V.Murali, for R3(WP.5543/17)

Mr.S.Gunasekaran, AGP for R1,2 &4

Mr.Hema MuraliKrishnan for R3
(WP.14983/17)

C O M M O N O R D E R

The relief sought for in these Writ Petitions are common. These Writ Petitions have been filed challenging the first paragraph 4(b) of G.O.Ms.No. 77 Rural Development and Panchayat Raj (PA4) Department dated 12.07.2013, issued by the first respondent. A direction is also sought to count 50% of the services rendered by the petitioners in the post of part time Panchayat Clerk along with regular services for the purpose of granting pensionary benefits.

2.The learned counsel appearing for the writ petitioners contended that the issue involved in these Writ Petitions have been considered by two different Hon'ble Division Benches of this Court, on the same line. The first Judgement was pronounced on 11th April, 2016 in W.A.No.431 of 2016 and the following paragraphs of the Judgement are relevant for the purpose of deciding these Writ Petitions:

"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 4 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 aforestated observations, the writ appeal stands dismissed. No costs. Consequently, connected C.M.P. is closed. "

3. Another Hon'ble Division Bench of this Court passed a Judgment on 24th June 2016 in W.A.No.612 of 2016, as extracted under:

"3. The grievance of the first respondent is that the services rendered by him as Part Time Panchayat Clerk was not taken into consideration while calculating pension. Therefore, he filed a writ petition and the same was allowed on 27.6.2014, along with similar writ petitions, holding that 50% of the services rendered by the writ petitioners as Part Time Panchayat Clerk should be taken into account while calculating pension and directing the concerned authority to calculate and issue orders granting pension and other benefits within a period of three months and to implement the same within a period of one month thereafter. Aggrieved by the same, the appellants have come up with this appeal.

4. As against the order of the learned single Judge dated 27.6.2014 3 passed in a batch of writ petitions, one of the writ petitioner, filed W.A.No.431 of 2016. A Division Bench of this Court, by judgment dated 11.4.2016, dismissed the appeal, holding that the learned single Judge had rightly concluded that the 50% of the services rendered by the petitioners therein under the consolidated pay by way of part time employment has to be taken into account for pensionary benefits.

5. In view of the decision of the Division Bench of this Court dated 11.4.2016 made in W.A.No.431 of 2016, this writ appeal is also dismissed in terms of the above judgment. There shall be no order as to costs. Consequently, CMP No.8080 of 2016 is closed. "

4. The learned counsel appearing for the petitioners contended that the Judgments of the Hon'ble Division Benches were implemented by the respondents in G.O.(P) No.111 RD & Panchayat Raj (PA5) Department dated 14.3.2016. Thus the writ petitioners herein are also eligible to get the same benefits extended to the other similarly placed employees worked as part time employees and absorbed as regular employees in the cadre of Junior Assistant.

5. The learned Additional Government Pleader opposed the contentions raised by the writ petitioners by stating that the writ petitioners are not eligible to get the benefits, as contended by the learned counsel for the writ petitioners.

6. Since the issue has been decided by the two different Hon'ble Division Bench of this Court on the same line, no exception can be drawn, by considering the arguments advanced by the learned Additional Government Pleader in this regard.

7. In this view of the matter, all these Writ Petitions stand disposed and the benefits granted by the two different Division Benches of this Court in W.A.No.431 of 2016 dated 11th April, 2016 and in W.A.No.612 of 2016, dated 24th June 2016, respectively are directed to be extended to these Writ Petitioners also. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

rpa

To

- 1 THE PRINCIPAL SECRETARY TO
GOVERNMENT RURAL DEVELOPMENT & PANCHAYAT
RAJ DEPARTMENT FORT ST. GEORGE CHENNAI-9
- 2 THE PRINCIPAL SECRETARY TO
GOVERNMENT OF TAMIL NADU FINANCE DEPARTMENT
FORT ST. GEORGE CHENNAI-9.
- 3 THE SECRETARY TO GOVERNMENT RURAL
DEVELOPMENT AND PANCHAYAT RAJ DEPARTMENT
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- 5 THE COMMISSIONER OF RURAL
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- 7 THE DISTRICT COLLECTOR
KRISHNAGIRI DISTRICT KRISHNAGIRI.
- 8 THE DISTRICT COLLECTOR
TIRUNELVELI DISTRICT TIRUNELVELI.
- 09 DISTRICT COLLECTOR
THIRUVALLUR DISTRICT THIRUVALLUR.
- 10 THE DISTRICT COLLECTOR
(PD SECTION) NILGIRI DISTRICT UDAGAMANDALAM
- 11 THE DISTRICT COLLECTOR
TIRUPUR DISTRICT TIRUPUR
- 12 THE DISTRICT COLLECTOR
(PD SECTION) CUDDALORE DIST. CUDDALOR

+5ccs to Mr.V.R.Rajesekaran, Advocate sr.52283

+1cc to Mr.T.S.Selvarani, Advocate sr.52214

+4ccs to Mr.V.Suthakar, Advocate sr.52918

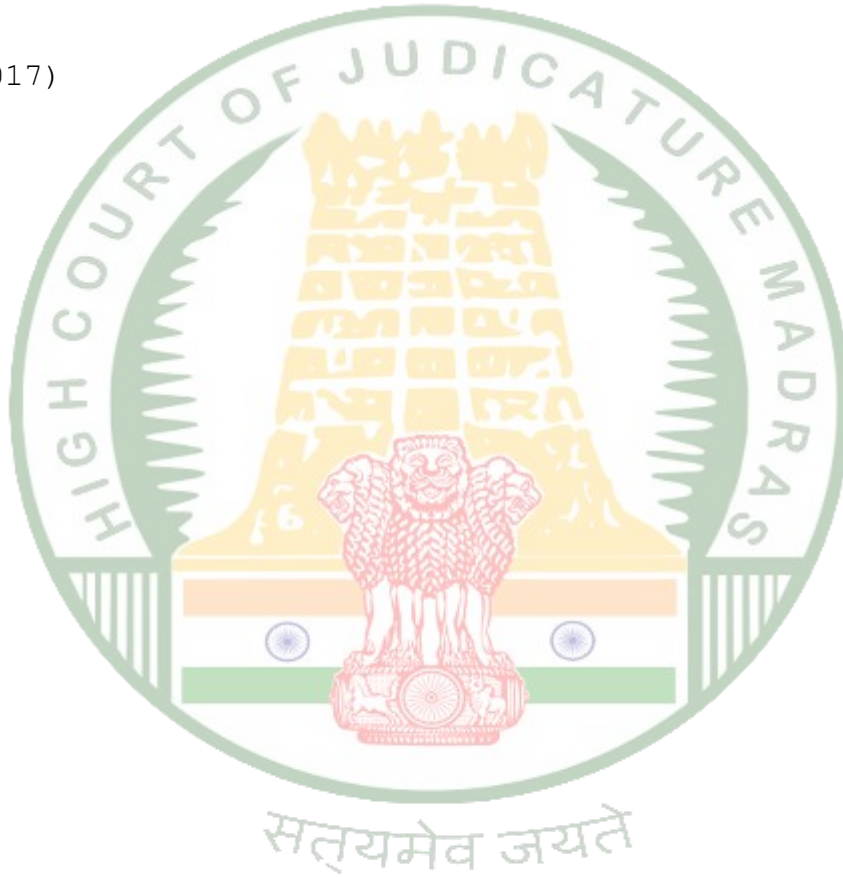
+1cc to Mr.R.Thamarai selvan, Advocate sr.51852

+2ccs to Mr.V.Murali, Advocate sr.52213,52215

+1ccs to Government Pleader sr.52512

W.P. Nos.21783 & 29206 of 2014;
8500 of 2015; 31110, 31111,
31112, 31113, 31114 of 2016;
5543, 14072 & 14983 of 2017

sk(co)
ss(21/8/2017)



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