

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.2378 of 2017
and
W.M.P.No.2363 of 2017

1.R.Rajendran
2.T.Ramakrishnan
3.A.Muniasamy
4.S.Rajendran ... Petitioners

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 Principal Secretary to
Government of Tamil Nadu,
Finance Department,
Fort St. George, Chennai - 600 009.

3. The Commissioner of Rural Development
and Panchayat Raj,
Panagal Building,
Saidapet, Chennai - 600 015.

4. The District Collector (PD Section)
Ramanathapuram District,
Ramanathapuram. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for the issuance 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 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 part time panchayat clerk along with regular service for the purpose of granting pension.

For Petitioners : Mr.V.Suthakar

For Respondents : Mr.K.Dhananjayan,
Special Government Pleader

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The service particulars of the petitioners are as follows:

S l . N o .	Name	Date of Appointment as part time Panchayat Clerk	Date of joining as Junior Assistant	Date of Retirement	Designation
1	R.Rajendran	01.12.1982	27.03.1999	30.09.2016	Dy.BDO (Retd) Paramakudi BDO Office, Ramanathapuram District.
2	T.Ramakrishnan	01.09.1981	25.01.1996	31.03.2015	Dy.BDO (Retd) BDO Office, Muthukalathur, Ramanathapuram District.
3	A.Muniasamy	12.01.1982	24.01.1996	31.03.2011	Assistant, (Retd), BDO office, Mandapam at Uchippulli Ramanathapuram District.
4	S.Rajendran	01.09.1981	25.01.1996	30.09.2017	Dy. BDO, in working at BDO Office, Kadalady Ramanathapuram District.

3. The grievance expressed by the petitioner is that the 4th respondent had granted pension to the petitioners 1 to 3 by calculating regular government service and refused to take 50% part time Panchayat service by applying G.O.Ms.No.77, Rural Development Department, dated 12.07.2013 and challenging

paragraph No.4(b) of the said Government Order, came forward to file this writ petition.

4. Mr.V.Suthakar, learned counsel appearing for the petitioner would submit that the said Government Order as well as the consequent proceedings were put to challenge in W.P.No.21397 of 2016 by one P.Sellavelu and others Vs. Government of Tamil Nadu, Rep. By its Principal Secretary to Government, Rural Development & Panchayat Raj Department, Fort St. George, Chennai - 600 009 and a single bench of this Court has taken note of the earlier judgment rendered by the Division Bench of this Court in W.A.No.431 of 2016 and passed a positive order to count 50% of the service put in by the petitioner therein by way of part time employment along with regular service for the purpose of commutation of pension and other benefits and prays for similar orders.

5. This Court heard the submission of Mr.K.Dhananjayan, learned Special Government Pleader, who accepts notice on behalf of the respondents.

6. It is relevant to extract paragraph Nos.4 to 6 of the judgment dated 11.04.2016 in W.A.No.431 of 2016:

"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 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."

7. Though the petitioner prayed for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to submit a representation to the first respondent through proper channel within a period of two weeks from the date of receipt of a copy of this order and the first respondent upon receipt of the said representation, is directed to consider the same in the light of the above cited judgment and pass appropriate orders on merits and in accordance with law within a further period of eight weeks thereafter and communicate the decision taken to the petitioners.

8. The Writ Petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsm

To

1. The Principal Secretary,
Government of Tamil Nadu,
Rural Development & Panchayat Raj Department,
Fort St. George, Chennai 600 009.

2. The Principal Secretary to
Government of Tamil Nadu,
Finance Department,
Fort St. George, Chennai - 600 009.

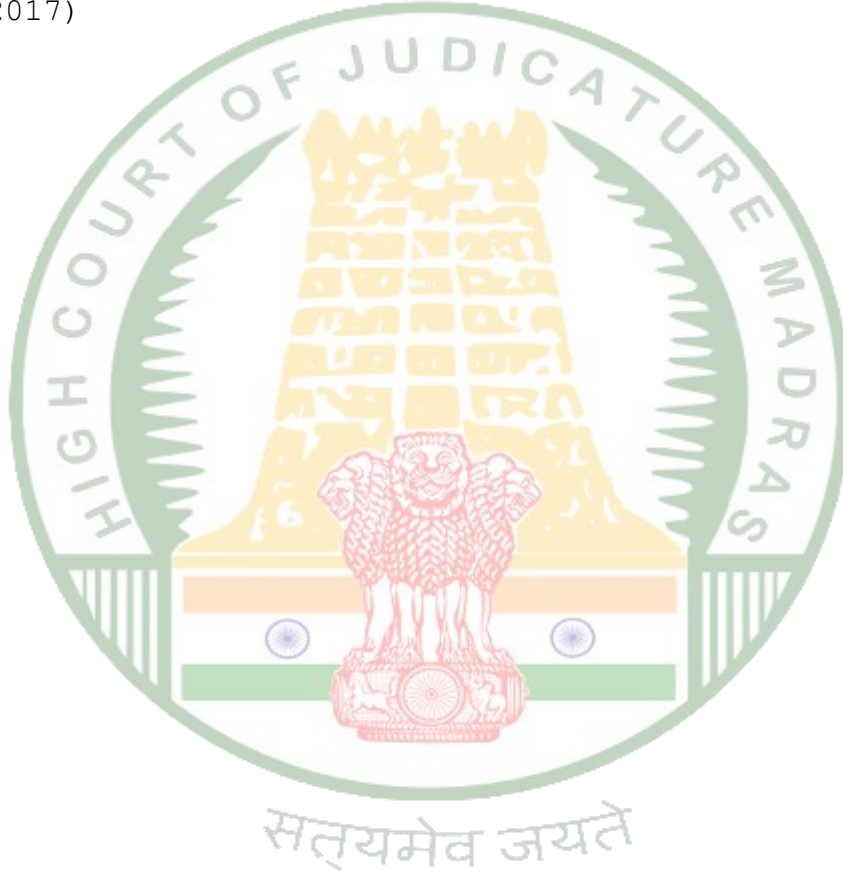
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4. The District Collector (PD Section)
Ramanathapuram District,
Ramanathapuram.

+1cc to Mr.V.Suthakar, Advocate, S.R.No.6322
+1cc to the Government Pleader, S.R.No.6436

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SV(CO)
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