IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.10.2018
CORAM
THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P. No.25868 of 2018
and W.M.P.No.30064 of 2018

1.C.T.Ramasamy
2.C.Krishnan
3.S.J.Duraisamy
4.P.K.Muniappa
5.S.Lakshmanan .. Petitioners

Vs

1.The Principal Secretary to
Government of Tamil Nadu
Rural Development Department
Fort St.George, Chennai-600 009.

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

3.The District Collector
Dharmapuri District
Dharmapuri.

4.The Principal Accountant General (A&E)
Tamil Nadu
No.361, Anna salai
Chennai-600 018. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus, directing the respondents to count 50% of service rendered by the petitioners in the cadre of Panchayat Assistant for the purpose of pension along with the regular pension given in the post of Village Administrative Officer with all consequential benefits.

For Petitioners : Mr.V.Suthakar
For Respondents : Mr.D.Suryanarayanan
Additional Government Pleader

ORDER

By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner has come up with this writ petition seeking a direction to the respondents to count 50% of service rendered by the petitioners in the cadre of Panchayat Assistant for the purpose of pension along with the regular pension given in the post of Village Administrative Officer with all consequential benefits.

3.The learned counsel for the petitioners submitted that in an identical case, this Court vide order dated 24.07.2017 made in W.P.No.21783 of 2014 etc., batch, passed the following order:

> "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:
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> "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.

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 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."

Hence, the learned counsel for the petitioners prayed for a similar order in this writ petition as well.

4.Mr.D.Suryanarayanan, the learned Additional Government Pleader, taking notice for the respondents submitted that he has no objection for granting such a relief to the petitioners.

5.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court directs the respondents to consider the petitioners' representations dated 02.05.2018 and 03.05.2018 and pass appropriate orders, on merits and in accordance with law, in the light of the order dated 24.07.2017 made in W.P.No.21783 of 2014 etc., batch, after affording due opportunity of hearing to the petitioners as well as any of the interested parties, within a period of six weeks from the date of receipt of a copy of this order.

6.Accordingly, this writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
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Government of Tamil Nadu
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Fort St.George, Chennai-600 009.

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4.The Principal Accountant General (A&E)
Tamil Nadu
No.361, Anna salai
Chennai-600 018.

+1cc to Government Pleader SR.NO.69131
+1cc to Mr.V.Suthakar, Advocate SR.NO.68612

SS(CO)
sm:26.10.2018

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and W.M.P.No.30064 of 2018