

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2019

CORAM :

THE HON'BLE MR. JUSTICE M. DHANDAPANI

W.P. No.20311 of 2019

- 1.K.Jeyakumar
- 2.M.Vasu
- 3.R.Rajendran
- 4.A.Chandran
- 5.M.Janakiraman
- 6.S.Mohan
- 7.P.Ramalingam
- 8.M.Natarajan
- 9.A.Ravikumar
- 10.M.Kannan

.... Petitioners

Vs.

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

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to render the pension and other retirement benefits for the 50% period of service as part time Panchayath clerk and Panchayath Assistant as per the decision in W.A.431 of 2016 dated 11.04.2016 and as per G.O.Ms.No.39, Rural Development Department dated 13.06.2011 with arrears of pension with all consequential benefits, within a time frame to be fixed by this Court.

For Petitioner : Mr. A.Ashvathamam
For Respondents : Mr. A.N.Thambidurai
Special Government Pleader

O R D E R

This Writ Petition has been filed for the issuance of the Writ of Mandamus directing the respondents to render the pension and other retirement benefits for the 50% period of service as part time Panchayat Clerk and Panchayat Assistant as per the decision in W.A.431 of 2016 dated 11.04.2016 and as per G.O.Ms.No.39, Rural Development Department dated 13.06.2011 with arrears of pension with all consequential benefits.

2. According to the petitioners, they are the retired persons from Rural Development Department seeking for pension. They have been appointed as Part Time Panchayat Clerks and Panchayat Assistants and regularized before the year 2003 and possessed various post in Rural Development Department. The Rural Development Department issued G.O.Ms.No.39 on 13.06.2011 stated that the persons who are working as Part Time Panchayat Clerks were entitled for the pension and other benefits for the 50% of the services rendered as Part Time Panchayat Clerk and Panchayat Assistant. The grievance of the petitioners is that as per G.O. Ms.No.39, they were entitled for the pension of 50% of the period of working as Part Time Panchayat Clerk. On 12.07.2013, G.O.Ms.No.77, Rural Development made some corrections in G.O. Ms.No.39 and it is stated that Full Time Contingency Workers are only entitled for the 50% of the calculated pension. In similar matters, this Hon'ble High Court buttress that the employees who absorbed before 01.04.2003, were entitled for the benefit of count 50% services rendered in the post of Panchayat Clerk along with regular service for the purpose of granting pension. The respondent denies the pension for the period working as Part Time Panchayat Clerk, for the reason stated in the G.O.77. The petitioners have approached the respondents regarding the same, since no action is forthcoming from the respondents, the petitioners have filed the present Writ Petition.

3. The issue involved in this Writ Petition has already been considered by this Court in W.A. No. 431 of 2016 dated 11.04.2016 wherein it has been held as under:

"...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 tht 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 aforesaid observations, the Writ Appeal stands dismissed. No costs. Consequently, connected C.M.P. is closed."

4. In the light of the above, this Writ Petition is disposed of directing the respondents to consider the claim of the petitioners for grant of pension and other retiral benefits for the 50% period of service as part time Panchayat Clerk and Panchayat Assistant as per G.O.Ms.No.39, Rural Development dated 13.06.2011 and pass orders within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Asst.Registrar (CS-III)

/true copy/

Sub Asst. Registrar

To

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

2.The Director of Rural Development,
Panagal Building,
Saidapet,
Chennai - 600 015.

3.The District Collector,
Villupuram District,
Villupuram.

+ 2 CC to Mr. A.Ashvathamam , Advocate SR 96670
+ 1 CC to the Government Pleader, High Court, SR 96606

EV(CO)
SP(16/07/2020)

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