

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.12.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.34909 of 2019
and WMP.No.35700 of 2019

1.S.Ramasamy
2.G.Subramaniam
3.V.Shanmugam
4.M.John Batcha
5.R.Tamizhan

... 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,
Finance Department,
Fort St. George, Chennai 600 009.

3.The Commissioner,
O/o.Rural Development & Panchayat Raj Department,
Panagal Building,
Saidapet, Chennai-600 015.

4.The District Collector,
Namakkal District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to paragraph 4 (b) of G.O.Ms.No.77, Rural Development and Panchayat Raj (g.m.4) Department, dated 12.07.2013 of the first Respondent and quash the same insofar it relates to the petitioners and further direct the respondents to count 50% of the services rendered by the petitioners in the post part time Panchayat Clerk along with their 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.

For Petitioner : Mr.Ganesh Babu

For Respondents: Mr.P.S.Sivashanmuga Sundaram
Special Government Pleader

ORDER

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

2.This writ petition has been filed challenging the G.O.Ms.No.77, Rural Development and Panchayat Raj Department, dated 12.07.2013 and for a consequential direction to direct the respondents to count 50% of the services rendered by the petitioners in the post of part-time Panchayat Clerk and for all consequential benefits.

3.It is seen from records that the petitioners were appointed as part-time Panchayat Clerks on various dates under the fourth respondent during the year 1982, 1984, 1986 and 1990 respectively. Subsequently, their services were regularized as full-time Panchayat Assistants during various periods. The petitioners were thereafter promoted as Panchayat Junior Assistants between the period from 2005 to 2009. The grievance of the petitioners is that the first respondent has issued a Government Order in G.O.Ms.No.77, Rural Development & Panchayat Raj Department dated 12.07.2013, whereby the petitioners claim that the part-time Village Panchayat Assistants have been discriminated in Paragraph 4(b) of the Government Order. As a result of the same, the 50% service benefits of the petitioners while they served as part-time Village Panchayat Assistants had not been taken into consideration for the purpose of determining the entitlement of the petitioners to claim pension under the Pension Rules. The further case of the petitioners is that they have all retired from service during the period between 2015 to 2019 and they have given representation to the respondents to calculate their part-time service along with the regular service for the purpose of pension benefits. Since there was no response, the present writ petition has been filed before this Court.

4.Mr.R.Ganesh Babu, learned counsel for the petitioners submitted that persons who were similarly placed had approached this Court and filed W.P.Nos.32579, 34375 and 34395 etc of 2013 and this Court had allowed the writ petitions by an order dated 30.04.2014. The learned counsel submitted that the order passed by this Court will also enure the benefit of the petitioners.

5.Per contra, Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader appearing on behalf of the respondents submitted that the entire issue has now been decided by the Full Bench of this Court in The Government of Tamil Nadus Vs. R.Kaliyamoorthy in W.A.No.158 of 2016 and etc., batch by an order dated 03.12.2019. The learned counsel submitted that the judgment of the full bench is now holding the field and if the petitioners fulfill the requirements as determined by the full bench, they will be entitled for the relief.

6.This Court has carefully considered the submissions made on either side and the materials available on record.

7.This Court need not go into the facts of the case, since the law has now been settled by the full bench of this Court in the judgment referred supra. If the petitioners satisfy the requirements as per the full bench, they will be entitled for the relief. The entitlement has to be determined by the respondents independently in line with the judgment of the full bench.

8.In the result, this writ petition is disposed of with a direction to the petitioners to make individual representations to the fourth respondent. On receipt of such representations, the fourth respondent is directed to forward the same to the third and first respondents within a period of two weeks from the date of receipt of copy of the representation. The petitioners, along with the representations shall also annex the earlier representation made by them and a copy of this order. The third and first respondents, after being forwarded the representations made by the petitioners, shall take a decision and pass appropriate orders in line with the judgment of the full bench referred supra within a period of twelve weeks thereafter.

9.This writ petition is disposed of with the above directions. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
Rural Development & Panchayat Raj Department,
Fort St. George, Chennai 600 009.
- 2.The Principal Secretary to Government,
Finance Department,
Fort St. George, Chennai 600 009.
- 3.The Commissioner,
O/o.Rural Development & Panchayat Raj Department,
Panagal Building,
Saidapet, Chennai-600 015.

4.The District Collector,
Namakkal District.

+1cc to Mr.Ganesh Babu, Advocate SR.No.105108

+1cc to Government Pleader SR.No.105804

+1cc to Mr.Ganesh Babu, Advocate SR.No.105108 (06/03/2020)

W.P.No.34909 of 2019
and WMP.No.35700 of 2019

LN(CO)
GMY(14/02/2020)



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