



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.05.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 12089 of 2014 and

M.P. (MD) No. 2 of 2014

P. Subbiah

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary
to the Government,
Rural Development and
Panchayath Raj Department,
Chennai - 9.

2. The Accounts Officer,
Office of the Accountant General,
(Accounts and Entitlements),
Tamil Nadu,
261, Anna Salai, Chennai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to proceeding of the second respondent in PEN 2/II/10208028/RN/12-13/159 dated 31.07.2012, quash the same and consequently direct the second respondent to count 50% of the service of the petitioner rendered in the Village Panchayat from 01.09.1970 to 03.01.1991 for the purpose of the revised commutation of pension, pension arrears and monthly pension with 18% of interest per annum.

For Petitioner

: Mr. P. Pethu Rajesh

For R-1

: Mr. A. Muthu Karuppan,

Additional Government Pleader.

For R-2

: Mr. P. Gunasekaran

* * *

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the first respondent and the learned Standing counsel appearing for the second respondent.

2. The Writ petitioner was originally appointed as part time clerk in Village Panchayat on 01.09.1970. He was promoted to the post of Rural Welfare Officer Grade II on full time service basis on 03.01.1991. He retired from his service as Extension Officer in Radhapuram Panchayat Union on 31.01.2006. The petitioner's grievance



is that his period of service as part time clerk which is for the period of 20 years 4 months and 3 days has been left out. His contention is that 50% of the service rendered as part time Panchayat Clerk must be reckoned for the purpose of revision of pensionary benefits. His request was forwarded by the Block Development Officer, Radhapuram, Tirunelveli District, to the second respondent. The second respondent cited a Government Order and negatived the Writ petitioner's request for inclusion of 50% of the part time Panchayat service for revision of pensionary benefits. This impugned order is under challenge in this Writ petition.

3. This Court can take notice of the fact that in a number of Writ petitions were allowed by directing the authorities to reckon 50% of the part time service put in by the petitioners therein as Panchayat Clerks. The learned counsel appearing for the petitioner drew my attention to decision of the Hon'ble Division Bench vide order dated 22.03.2018 in W.A.No.1111 of 2016 which reads as follows:-

"5. The very same issue came up for consideration before a Division Bench of this Court in Government of Tamil Nadu vs. P.V.Velliyangiri (Judgment dated 11 April, 2016 in W.A.No.431 of 2016).

6. The Division Bench in P.V.Velliyangiri, considered the scope and ambit of the Government Order in G.O.Ms.No.77 dated 12 July, 2013 and the policy decision expressed by the Government in G.O.Ms.No.39 dated 13 June, 2011 and opined that an employee working in a Panchayat as a Full Time Clerk or Part Time Clerk and having been absorbed prior to 01 April, 2003 would be entitled for counting 50% of the earlier service as part time employee under the consolidated pay for the purpose of computation of pensionary benefits. We are in agreement with the views expressed by the Division Bench in its Judgment dated 11 April 2016 in W.A.No.431 of 2016. We are informed that, subsequently another Division Bench took the very same view in Government of Tamil Nadu and others Vs. M.Rajendran and another (Judgment dated 24 June 2016 in W.A.No.612 of 2016).

7. There was no appeal preferred by the appellants against the order in W.P.No.19624 of 2014 quashing paragraph 4(b) of G.O.Ms.No.77, Rural Development and Panchayat Raj (PA4) Department, dated 12 July, 2013. It was only the subsequent order following the order in W.P.No.19624 of 2014 which was challenged by the appellants. In any case, the issue is now covered by the decision given by two co-ordinate Benches of this Court. We are, therefore, of the view that there is absolutely no merit in the appeal



filed by the appellants.

In the upshot, we dismiss the intra court appeal. No costs. Consequently, connected miscellaneous petition is closed."

The case on hand is squarely covered by the aforesaid decision of the Hon'ble Division Bench.

4. In this view of the matter, the order impugned in this Writ petition stands quashed. The Writ petition stands allowed, accordingly. The Block Development Officer, Radhapuram Taluk, Tirunelveli District, is directed to resubmit the proposal to the second respondent who shall include 50% of the petitioner's part time service for revision of pensionary benefits, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The State of Tamil Nadu,
Represented by its Secretary to the Government,
Rural Development and Panchayat Raj Department,
Chennai - 9.
2. The Accounts Officer,
Office of the Accountant General,
(Accounts and Entitlements),
Tamil Nadu,
261, Anna Salai, Chennai.
3. The Block Development Officer,
Radhapuram Taluk, Tirunelveli District.

+1cc to Mr.P.PETHURAJESH, Advocate, SR.No.65670

+1cc to Mr.P.GUNASEKARAN, Advocate, SR.No.65660

W.P. (MD) No.12089 of 2014 and
M.P. (MD) No.2 of 2014
09.05.2019

PMU

KK/SAR/17.06.2019/3P-6C

<https://hcservices.ecourts.gov.in/hcservices/>