



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. 20855 of 2015 and

M.P. (MD) No. 2 of 2015

1. M.Ravichandran
2. S.P.Somasundaram
3. T.Purushothaman
4. B.Piramanayagam
5. S.Jeyabalan

... Petitioners

Vs.

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

2. The Director of Rural Development & Panchayat Raj,
Panagal Building,
Chennai - 15.

3. The District Collector,
Madurai @ Madurai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned order passed by the first respondent in G.O.Ms. No.77 dated 12.07.2013 and quash the same and consequently direct the first respondent to count the services rendered by the petitioners in the post of part time Panchayat Clerks for the purpose of pension and other retiral benefits together with all consequential benefits.

For Petitioners : Mr.N.Sathish Babu

For Respondents : Mr.A.Muthu Karuppan,

Additional Government Pleader.

* * *

O R D E R

Petitioners 1 and 3 retired from service as Deputy Block Development Officers on 31.10.2014. Petitioners 2 and 4 retired from service as Deputy Block Development Officers on 30.09.2015 and 30.06.2015 respectively. The fifth petitioner is now working as Deputy Block Development Officer. The petitioners had originally served as Part Time Panchayat Clerks. The petitioners want the said service to be counted for the purpose of pension and other retirement benefits. In the impugned Government Order, it has been mentioned that the services rendered as part time Panchayat Clerk



cannot be counted for the purpose of pensionary benefits. Challenging the same, this Writ petition has been filed.

2. The issue raised in the Writ petition is no longer *res integra*. The Hon'ble Division Bench vide order dated 22.03.2018 in W.A.No.1111 of 2016 held as follows:-

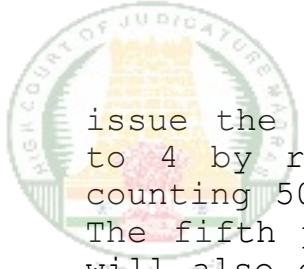
"5. The very same issue came up for consideration before a Division Bench of this Court in Government of Tamil Nadu vs. P.V.Velliyangiri (Judgment dated 11 April, 2016 in W.A.No.431 of 2016).

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."

3. Respectfully following the aforesaid decision of the Hon'ble Division Bench which squarely covers the case on hand, this Court directs the third respondent to forward the proposal pertaining to petitioners 1 to 4 to the second respondent who shall in turn forward the same to the first respondent. The first respondent shall



issue the appropriate Government Order in respect of petitioners 1 to 4 by refixing their pension and other retirement benefits by counting 50% of the part time service put in by petitioners 1 to 4. The fifth petitioner is still employed in service and of course he will also get the very same benefits, when his turn comes. There is no need to allow the prayer for quashing, because the offending part of the impugned Government Order has already been quashed as noted in the aforesaid decision of the Hon'ble Division Bench. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. This Writ petition stands allowed on these terms. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Principal Secretary to Government of Tamilnadu,
Rural Development & Panchayat Raj Department,
Fort St. George, Chennai - 600 009.
2. The Director of Rural Development & Panchayat Raj,
Panagal Building, Chennai - 15.
3. The District Collector,
Dindigul @ Dindigul District.

+5cc to Mr.N.SATHISH BABU, Advocate, SR.No.65777

W.P. (MD) No.20855 of 2015 and
M.P. (MD) No.2 of 2015
09.05.2019

PMU

KK/SAR/17.06.2019/3P-9C

—