



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.05.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 15783 of 2018

R. Kannan

... Petitioner

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 District, Madurai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to count the services rendered by the petitioner in the post of part time Panchayat Clerks for the purpose of pension and other retiral benefits together with all consequential benefits in view of G.O.Ms.No.39 dated 13.06.2011 & G.O.Ms.80 dated 25.09.2013 and as per the order passed by this Court in Judgment in W.A.No.1111 of 2016 dated 22.03.2018 further by considering the representation given by the petitioner dated 28.05.2018 within the period stipulated by this Court.

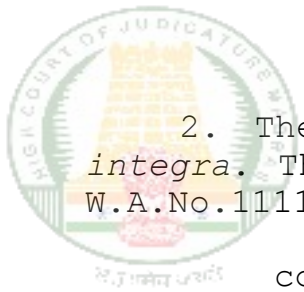
For Petitioner : Mr.N.Sathish Babu

For Respondents : Mr.A.Muthu Karuppan,
Additional Government Pleader.

* * *

O R D E R

The Writ petitioner retired from service as Block Development Officer on 31.05.2018. The petitioner had originally served as Part Time Panchayat Clerk. The petitioner wants the said service to be counted for the purpose of pension and other retirement benefits. Hence, 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 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 the petitioner 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 the Writ petitioner by refixing his pension and other retirement benefits by counting 50% of the part time service put in by the Writ petitioner. 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.

Sd/-

Assistant Registrar (AE)

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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,
Madurai District, Madurai.

+1 CC to M/s.N.SATHISH BABU, Advocate (SR-65779[F] dated 13/05/2019)

W.P. (MD) No. 15783 of 2018
09.05.2019

PMU

KK/SAR/17.06.2019/3P-5C

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