

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 24.04.2019

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN**WP(MD) No. 8565 of 2017**

WEB COPY

1. R. Kanagarajan
2. K. Gunasekaran
3. V. P. Maran

... Petitioners

Vs.

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

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

3. The District Collector,
Theni @ Theni District.

4. The District Collector,
Madurai @ Madurai District.

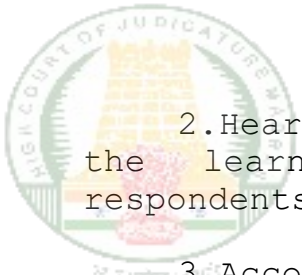
... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records in connection with impugned order passed by the 1st respondent in GOMs.No.77, dated 12.07.2013 and quash the same and consequently, direct the 1st respondent to count the serviced 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 : Mrs. J. Padmavatahi Devi,
Special Government Pleader

ORDER

This writ petition has been filed seeking a writ of certiorarified mandamus to call for the records in connection with the impugned order passed by the 1st respondent in GO.Ms.No.77, dated 12.07.2013 and quash the same and consequently, direct the 1st 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.



2. Heard the learned counsel appearing for the petitioners and the learned Special Government Pleader appearing for the respondents.

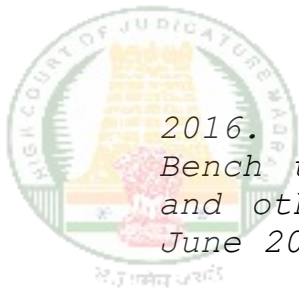
3. According to the learned counsel appearing for the petitioners, the issue involved herein had already attained finality by order dated 22.03.2018 in the case of The Government of Tamil Nadu and Others Vs Tamil Nadu Rural Development Official's Association [WA No.1111 of 2016] and hence, he prayed for the similar order in this writ petition also.

4. The relevant portion of the decision cited supra reads as follows:

"4. The respondent filed the writ petition in W.P.No.2697 of 2014 challenging paragraph 4(b) of the Government Order in G.O.Ms.No.77 dated 12 July, 2013. The respondent made a further prayer to count 50% of the services rendered by the members of the association in the post of part time Panchayat Clerk along with the regular service for the purpose of pension in accordance with the Government Order in G.O.Ms.No.39 dated 13 June, 2011. Paragraph 4(b) of G.O.Ms.No.77, dated 12 July, 2013 has already been quashed by a learned single Judge of this Court in a writ petition in W.P.No.19624 of 2014. Therefore, there was no legal requirement on the part of the respondent to challenge the very same clause once again independently. Even then, the learned single Judge considered the background facts including the outcome of the writ petitions filed earlier challenging the very same provision. The learned single Judge quashed paragraph 4(b) of the impugned Government Order and directed the appellants to give the benefit of part time service to the members of the respondent association.

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.

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

5. The learned Special Government Pleader appearing for the respondents has no serious objection.

6. In view of the submission made on either side, this writ petition is disposed of in line with the decision cited supra. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

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+1 CC to Mr.N.SATHISH BABU, Advocate in SR-62341
+1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No.62753

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