



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.07.2019
CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P. (MD) No.20113 of 2014

M.Rajarathinam

... Petitioner

Vs.

1.The Principal Accountant General,
(Accounts and Entitlements)
361, Anna Salai, Tenampettai,
Chennai 600 018.

2.The Principle Secretary to the State Govt.
of Tamil Nadu,
Rural Development and
Panchayat Raj Department,
Secretariat, Chennai-600 009.

3.The Commissioner,
Directorate of Rural Development and
Panchayat Raj Department,
Panagal Building,
Saidapet, Chennai 600 015.

4.The District Collector,
Pudukottai District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records of the 4th respondent in Oo.Mu.5815/2014/V1 (Development) dated 31.07.2014 and quash the same and consequently directing the 4th respondent to take into account half of the service of the petitioner from 22.07.1965 to 31.10.2003 for the purpose of pension, arrears and all attendant terminal benefits with 18% of interest p.a.

For Petitioner : Mr.P.Ganapathi Subramanian

For R1 : Mr.P.Gunasekar

For R2 to R4 : Mr.K.Mu.Muthu
Additional Government Pleader

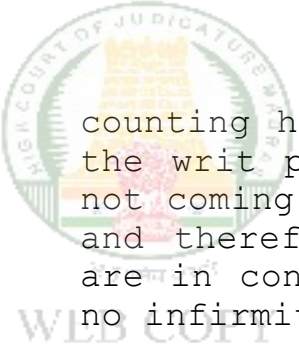
**ORDER**

The order of rejection dated 31.07.2014 rejecting the claim of the writ petitioner for grant of pension by counting the half of the services of the writ petitioner from 22.07.1965 to 31.10.2003, is under challenge in the present writ petition.

2.The writ petitioner was appointed as part-time Clerk in Kolanthiranpattu Panchayat on 22.07.1965 and the writ petitioner served till 30.12.1990. Subsequently, the post of Clerk in Panchayat was re-designated as Panchayat Assistant and the writ petitioner was reappointed as panchayat Assistant. The re-designation was given from 31.12.1990. The Government issued G.O.Ms.No.118 Finance (Pension) Department, dated 14.02.1996 for the purpose of counting half of the service rendered by the employees under contingent establishment. The Government issued a clarification in Letter No.10793, Finance(Pension)/2000-1 Department, dated 04.10.2000, stating that the services rendered in the cadre of Village Panchayat Part-time Clerk could not be taken into account for the purpose of grant of pension. The writ petitioner was allowed to retire from service as Panchayat Assistant on 31.10.2003 and on 21.07.2014 the writ petitioner sent a representation to count half of the services rendered by him as part-time Clerk and sanction pension. The said claim of the writ petitioner was rejected by the respondent in proceeding dated 31.07.2014 and the Principal Accountant General(Accounts and entitlements) also clarifies in Letter, dated 07.10.2014 that the petitioner is not eligible for the benefit of counting half of the service, as per G.O.Ms.No.77 RD & PR (PA4) Department, dated 12.07.2013.

3.The writ petitioner is not a pensioner as of now. The writ petitioner is not receiving any pension under the Tamil Nadu Pension Rules. When his services are not even a pensionable service with reference to the pension rules in force, the question for counting half of the service does not arise at all. It is not as if Rule 11(4) of the Tamil Nadu Pension Rule can be strictly applied in respect of the non-pensionary service by counting 50% of the service and pension can be granted. First of all to avail the benefit of rule 11(4) of the Tamil Nadu Pension Rules, the employee must be a pensioner coming within the meaning of Pension Rules 1978. Counting half of the service will arise only if a person is a pensioner with reference to the Rule 11(4) of the Tamil Nadu Pension Rules and completed minimum qualifying service of 10 years.

4.In the present case, the writ petitioner was working as Panchayat Assistant throughout and he was not sanctioned with any pension. When the employee has not received any pension within the meaning of the Tamil Nadu Pension Rules, the question of applying Rule 11(4) of the Tamil Nadu Pension Rules for



counting half of the service would not arise at all. This apart, the writ petitioner was working as Panchayat Assistant, which is not coming within the purview of the Tamil Nadu Pension Rules 1978 and therefore, the order of rejection passed by the respondents are in consonance with the Tamil Nadu Pension Rules and there is no infirmity as such.

5. Accordingly, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Principal Accountant General, (Accounts and Entitlements)
361, Anna Salai, Tenampettai, Chennai 600 018.

2. The Principle Secretary to the State Govt. of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai-600 009.

3. The Commissioner, Directorate of Rural Development and
Panchayat Raj Department, Panagal Building,
Saidapet, Chennai 600 015.

4. The District Collector, Pudukottai District.

+1cc to the Spl. Govt. Pleader Sr. No. 75417

Ns

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