



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2019

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.27163 of 2019

Balasubramanian

... Petitioner

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,
Panagal Building, Chennai - 600 015.

3.The District Collector,
Office of the District Collector,
Madurai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the first respondent herein to count the services rendered by the petitioner herein in the post of part time Panchayat Clerks for the purpose of pension and retiral benefits together with all consequential benefits, in view of G.O.Ms.No.39, dated 13.06.2011 and as per the order passed by this Court in W.A.No.1111 of 2016, dated 22.03.2018, within a stipulated time.

For petitioner

: Mr.A.R.Kannappan

For respondents

: Mr.C.Mari Chellaiah Prabhu,
Addl. Government Pleader

ORDER

This writ petition has been filed by the petitioner for a direction to the first respondent herein to count the services rendered by the petitioner herein in the post of part time Panchayat Clerks for the purpose of pension and retiral benefits together with all consequential benefits, based on G.O.Ms.No.39, dated 13.06.2011 and the order passed by a Division Bench of this Court in W.A.No.1111 of 2016, dated 22.03.2018, within a stipulated time.

2. By consent, the writ petition itself is taken up for final disposal at the stage of admission itself.

3. The learned counsel for the petitioner submitted that on 01.03.1966, the petitioner was appointed as Part Time Panchayat Clerk and thereafter, he was absorbed and promoted as Junior Assistant at T.Kallupatti Panchayat Union on 31.12.1990 and he was retired from service on 31.05.2000. The Government has issued G.O.Ms.No.39, dated 13.06.2011 stating that an employee who was working in a Panchayat as Full Time Clerk/Part Time Clerk and having been absorbed by the Government prior to 01.04.2003 will be entitled



for counting of 50% of service as Part Time Employee under consolidated pay for the purposes of computation of pensionary benefits. The grievance of the petitioner is that the benefit of the said G.O. has not been extended to him. In this regard, the petitioner has sent a representation dated 20.11.2019 to the respondents, but the same is not yet considered by the respondents. Hence, the petitioner has come with this writ petition for the aforesaid prayer.

4. The learned Additional Government Pleader, who took notice for the respondents, submitted that the petitioner is belatedly claiming the benefits and hence, this writ petition may be dismissed on the ground of delay and laches.

5. Heard the learned counsel for both sides and perused the records carefully.

6. In this case, the petitioner is stated to have been absorbed as Part Time Panchayat Clerk on 31.12.1990, though he was appointed as Part Time Panchayat Clerk as early as on 01.03.1966 and he retired on 31.05.2000. As the petitioner was absorbed prior to 01.04.2003, he is entitled to the benefit of G.O.Ms.No.39, dated 13.06.2011. Though it is stated by the learned Additional Government Pleader that the petitioner has approached this Court belatedly, this Court is of the view that having issued the G.O.Ms.No.39, dated 13.06.2011, the Government, as a model employer, ought to have surveyed the eligible employees and extended the benefits of the G.O. to them. The petitioner, who was a last grade servant, having waited for these long years knowingly or unknowingly under the impression that the employer/Government will extend the benefit to him also, cannot be found fault with for the delay. It is seen that in similar circumstances, a Division Bench of this Court has extended the benefit of the said G.O. to a similarly placed person in the case of the State of Tamil Nadu Vs. Tamil Nadu Rural Development Official's Association rep. by its State President, Chennai [W.A.No.1111 of 2016, dated 22.03.2018] and following the same, learned Single Judges of this Court have disposed of similar writ petitions in the case of R.Kanagarajan and others Vs. the State of Tamil Nadu and others [W.P.(MD).No.8565 of 2017, dated 24.04.2019] and in the case of R.Kannan Vs. State of Tamil Nadu and others [W.P.(MD).No.15783 of 2018, dated 09.05.2019].

7. In view of the above, the first respondent is directed to consider the representation of the petitioner, dated 20.11.2019, in the light of the judgment, dated 22.03.2018, passed in W.A.No.1111 of 2016 and dispose of the same, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. The petitioner is directed to forward a copy of this order and the judgment passed in W.A.No.1111 of 2016 along with a copy of his representation dated 20.11.2019 to the first respondent for early compliance of the above order.



8. This Writ Petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar (Crl.side)

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Sub Assistant Registrar(CS)

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To

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

2.The Director of Rural Development and Panchayat,
Panagal Building,
Chennai - 600 015.

3.The District Collector,
Office of the District Collector,
Madurai.

+1 CC to M/s.A.R.KANNAPPAN, Advocate (SR-106192[F] dated 20/12/2019

W.P(MD)No.27163 of 2019
20.12.2019

SMA/10/01/2020/3P/5C