

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.02.2020
CORAM
THE HON'BLE MR.JUSTICE N.ANAND VENKATESH
W.P.No.1580 of 2020

K.Sekar

..Petitioner

.v.

- 1.The Government of Tamil Nadu,
Rep.by its Principal Secretary to Government,
Rural Development & Panchayat Raj Department,
Fort St.George, Chennai 600 009.
- 2.The Director of Rural Development & Panchayat Raj,
Panagal Building,
Saidapet, Chennai 60-0 015.
- 3.The District Collector,
Salem District,
Salem.
- 4.The Principal Accountant General (A & E) Tamil Nadu,
No.361 Anna Salai,
Chennai 600 018.

... Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to extend the benefit of orders passed by Division Bench of this Hon'ble Court in W.A.No.431 of 2016 dated 11.04.2016 and W.A.No.612/2016 dated 24.06.2016 by counting 50% services rendered by the petitioner in the post of part time Panchayat clerk from 01.11.1979 till 09.01.1993 for the purpose of granting pension along with regular service from 10.01.1993 till 31.05.2019 rendered by the petitioner.

For Petitioner : Mr.V.Suthakar

For Respondents : Mr.P.V.Selvakumar
Additional Government Pleader

O R D E R

In the present writ petition, the petitioner has sought for the relief to direct the official respondents to treat 50% of the service rendered by the petitioner in the pensionable service and to grant him the consequential benefits.

2. The learned Special Government Pleader and the respective learned Government Advocates appearing for the respective Departments brought to the notice of this Court, the judgment of the Full Bench in Government of Tamil Nadu, Rep. by Secretary to Government, Public Works Department, Secretariat, Chennai 9 vs. R. Kaliyamoorthy, in WA Nos.158, 314-317, 343 of 2016 etc. batch, dated 03.12.2019, reported in 2019 (6) CTC 705.

3. It was submitted that the claim that has been made by the petitioner can be considered in line with the judgment rendered by the Full Bench and that the Writ Petition can be disposed of accordingly.

4. The learned counsel appearing for the petitioner submitted that there should be a direction to the respondents to consider the claim made by the petitioner in line with the judgment of the Full Bench, referred supra, and also to grant him the attendant benefits if the petitioner fulfill the conditions stipulated by the Full Bench.

5. The learned counsel for the petitioner further submitted that the petitioner must not be made to again knock the doors of this Court, in order to claim any consequential reliefs and the respondents must be directed to consider the same while considering the entitlement of the petitioner.

6. A batch of Writ Appeals came up before the First Bench on 10.02.2020 in Writ Appeal Nos.1218 of 2018 etc. batch and the First Bench was pleased to take note of the Full Bench Judgment of this Court and had disposed of all the Writ Appeals in line with Paragraph 45 of the Full Bench Judgment. Paragraph 45 of the Full Bench judgment is extracted hereunder.

"45. In the light of the above, we answer the reference as follows:

(i) Those, who are freshly appointed on or after 1.4.2003 are not entitled to Pension in view of Proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259, dated 6.8.2003.

(ii) Those Government servants/Employees appointed prior to 1.4.2003 whether on Temporary or Permanent basis in terms of Rule 19(a)(i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get Pension as per the Tamil Nadu Pension Rules, 1978.

(iii) In case, a Government Employee/servant had also rendered service in Non-Provincialised service, or on Consolidated pay or on Honorarium or Daily Wage basis and if such services were regularised before 1.4.2003, half of such service rendered shall be counted for the purpose of conferment of Pensionary benefits.

(iv) Those Government servants, who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10 (a)(i) of Tamil Nadu State and Subordinate Service Rules before 1.4.2003 and absorbed into Regular service after 1.4.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for Pension.

(v) Those Government servants, who were appointed in the aforesaid four categories before 1.4.2003 but were absorbed in Regular service after 1.4.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for Pension."

7. In view of the above, there is no reason for this Court to take a different approach in dealing with the case and this Court would follow the judgment of the Full Bench and the subsequent Division Bench and dispose of the Writ Petition.

8. Accordingly, the Writ Petition is disposed of in terms of paragraph 45 of the Full Bench judgment that has been referred supra. If the respondents find that the petitioner is fulfilling the requirements as contained in the judgment of the Full Bench, consequential benefits shall be granted without driving the petitioner back to the Court for claiming the same. In this Writ Petition, the respective respondents shall take a decision and pass appropriate orders within a period of three

months from the date of receipt of copy of this order.

9. This Writ Petition is disposed of with the above direction. There shall be no order as to costs.

Sd/-
Asst.Registrar (CS V)

/true copy/
Sub Asst. Registrar

KP
To

- 1.The Government of Tamil Nadu,
Rep.by its Principal Secretary to Government,
Rural Development & Panchayat Raj Department,
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 - 4.The Principal Accountant General (A & E) Tamil Nadu,
No.361 Anna Salai,
Chennai 600 018.
- +1 cc to Mr.V.Sudhakar Advocate sr16275
+1 cc to Government Pleader sr 16200

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