



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2020

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD) .No.17649 of 2014

Shanmugam

... Petitioner

-Vs-

1.The Government of Tamil Nadu,  
Rep. by its Secretary,  
Rural Development Department,  
Fort St. George, Secretariat,  
Chennai-600 009.

2.The Director of Rural Development,  
Panagal Building, Saidapet,  
Chennai-600 005.

3.The District Collector/Inspector of Panchayats,  
Tiruchi District, Tiruchi.

4.The Accountant General,  
No.361, Anna Salai,  
Chennai-600 015.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to grant pensionary benefits to the petitioner from the date of his retirement taking into account his entire period of service as Panchayat Clerk/Panchayat Assistant from 04.08.1963 to 31.12.2009.

For Petitioner : Mr.V.Kannan

For Respondents: Mr.G.Arjunan  
Government Advocate  
(for R1 to R3)

Mr.P.Gunasekaran (for R4)

**ORDER**

The writ petitioner filed the present writ petition at the age of 76 years, now the age of petitioner would be around 82 years.  
<https://hcservices.ecourts.gov.in/hcservices/>



The claim of the writ petitioner is that he was appointed as Part-Time Panchayat Clerk and retired from service on 31.12.2009. The petitioner himself admitted the fact that no pensionary benefits were granted to him, as he has not completed ten years of service as a regular employee.

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2.The learned Government Advocate appearing on behalf of the respondents 1 to 3 made a submission that the services of the writ petitioner was not even regularised and he was not a permanent employee of the panchayat. When the petitioner is not even eligible for pension, the question of counting of 50% services would not arise at all. This apart, the petitioner attained the age of retirement in the year 2009 and the writ petition is filed in the year 2014, after a lapse of 5 years. When the services of the writ petitioner was not even regularised, the petitioner is not entitled to get the benefit of counting of 50% of the services as per Rule 11 of the Tamil Nadu Pension Rules 1978. In this regard, it is relevant to extract Paragraph No.6 of the counter affidavit filed by the third respondent, which reads as under:-

*"....6.It is submitted that the petitioner joined as Part time Clerk in Amoor Panchayat in the year 1963 (04.08.1963) and continuously in the same Amoor Panchayat in Musiri Panchayat Union with effect from 04.08.1963 till the end of his service he served as part time Panchayat Clerk only. The G.O.No.39 or G.O.No.77 speaks only on the persons who were regularized on service. A person who was regularized and who don't have a service to obtain pension is provided the benefit by taking into account 50% of his service rendered as part time Panchayat Clerk. In the case in hand the petitioner is not even regularized. He cannot equate himself with any other person who has got benefit out of the G.O. mentioned above. Admittedly, the petitioner got retired in the year 2009. Writ petition is filed in the year 2014. On the ground of laches the writ petition deserves dismissal. The writ petitioner has not come forward with clean hand. The writ petitioner has suppressed all the material facts. It is for the petitioner to make an application for regularization when he was in service. Missing all the options now the petitioner had rushed to the court, which is unsustainable. In similar suppression of the fact appeal has been preferred by the State."*

3.In view of the fact that the services of the writ petitioner was not even regularised and further, he filed the writ petition after a lapse of five years, the question of granting the



relief of counting of 50% of the services does not arise at all. Accordingly, the writ petition stands dismissed. No costs.

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// True Copy //

Sd/-

Assistant Registrar (P & A)

/ /2020

Sub Assistant Registrar(CS)

*sjj*

To

- 1.The Secretary,  
Government of Tamil Nadu,  
Rural Development Department,  
Fort St. George, Secretariat,  
Chennai-600 009.
- 2.The Director of Rural Development,  
Panagal Building, Saidapet,  
Chennai-600 005.
- 3.The District Collector/Inspector of Panchayats,  
Tiruchi District, Tiruchi.

+1 CC to SGP ( SR-23153[F] dated 27/11/2020 )

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26.11.2020

5 (CO)

NR (07/12/2020) 3P : 5C