



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.11.2021

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.5684 of 2020

M.Shanmugam

...Petitioner

Vs.

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

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

3.The Principal Accountant General,
(Accounts and Entitlement),
No.361, Annasalai,
Tenampettai, Chennai - 600 018.

4.The District Collector,
Trichy.

5.The Block Development Officer (Block),
Lalgudi Panchayat Union,
Trichy.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, direct the respondents to take into account 50% of the service rendered by the petitioner as Panchayat Assistant from 01.10.1986 to 01.07.2012, for pensionary benefits and accordingly fix the pension to the petitioner.

For Petitioner	:Mr.P.Ganapathi Subramaniyan
For R1,R2, R4 & R5	:Mr.A.Kannan
	Special Government Pleader
For R3	:Mr.P.Gunasekaran

O R D E R

This writ petition is filed to direct the respondents to take into account 50% of the service rendered by the petitioner as Panchayat Assistant from 01.10.1986 to 01.07.2012, for pensionary benefits



2.The case of the petitioner is that she was appointed as Panchayat Clerk at Bhagampatti Village Panchayat, Andanallur Panchayat Union, Trichy on 01.10.1986, by the Commissioner, Andanallur Village Panchayat, on monthly salary of Rs.285/- Subsequently, he was posted as Panchayat Assistant on 28.12.1990 on consolidated pay of Rs.400. On 11.12.2012, time scale of pay was fixed. Thereafter, he held the posts of Junior Assistant and Assistant. On 31.12.2018, he retired from service on attaining the age of superannuation. According to the petitioner, as per G.O.No.39, Rural Development and Panchayat Raj Department (E5), dated 13.06.2011 and G.O.Ms.No.408 Finance (Pension) Department, dated 25.08.2009, 50% of service rendered as Panchayat Clerk and Assistant is to be taken into account for calculating the pension benefits and the same was upheld by this Court in W.P.No.14770 of 2012.

3.The learned counsel appearing for the petitioner submits that Government has passed various Government orders in G.O.No.228, Rural Development and Panchayat Raj Department, dated 08.06.2016 and G.O.Ms.No.8, Rural Development and Panchayat Raj Department, dated 29.07.2016, granting relief to the similarly placed persons by taking into account 50% of their service as Panchayat clerk and Panchayat Assistant, while granting pensionary benefits. As such, the learned counsel for the petitioner requested to extend the same benefits to the petitioner also. In this regard, the petitioner sent a representation to the respondents on 22.06.2018. As there was no action on the part of the respondents, the petitioner is before this Court, with the present Writ Petition.

4.Mr.A.Kannan, learned Additional Government Pleader appearing for the respondents 1,2,4 & 5 submits that the petitioner was appointed as Panchayat Clerk on 01.10.1986 and his service was regularized only on 02.07.2012 and therefore, this petitioner is not entitled for calculating 50% of his service rendered by him from 1986 to 2006.

5.Further, the Additional Government Pleader claims that the issue in this writ petition is now settled by the judgment of this Court in W.A.No.158 of 2016 etc., batch, dated 03.12.2019, wherein, the Honourable Division Bench has answered this issue as follows:-

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

i.Those who are freshly appointed on or after 01.04.2003 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 06.08.2003.

ii.Those government servants/employees appointed prior to 01.04.2003 whether on temporary or



permanent basis in terms of Rule 10(a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.

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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 regularized before 01.04.2003, 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 Services Rules before 01.04.2003 and absorbed into regular service after 01.04.2003 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 01.04.2003, but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension."

6. According to the learned Special Government Pleader, this petitioner is not entitled for the relief as per paragraph 45 of the orders passed by the Full Bench of this Court.

7. This Court accept the contention of the learned Special Government Pleader that the issue involved is covered by the judgment of Full Bench of this Court passed in W.A.No.158 of 2016 etc., Batch, dated 03.12.2019.

8. In such view of the matter, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (W)

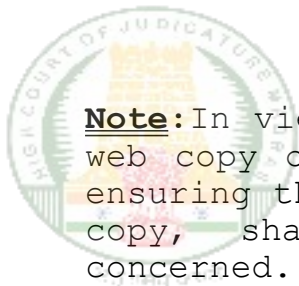
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To

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- 5.The Block Development Officer (Block),
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Trichy.

+1 CC to M/s.P.GANAPATHI SUBRAMANIAN, Advocate (SR-36438[F]
dated 29/11/2021)

Order made in
W.P(MD) No.5684 of 2020
25.11.2021

NSN(CO)
GC(29.12.2021) 4P 7C