



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:23.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI
W.P. (MD)No.1562 of 2016

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C.Thirukkannan

... Petitioner

Vs.

1.The Government of Tamilnadu,
Represented by its Secretary,
Rural Development and Panchayat Raj Department,
Fort St.George,
Secretariat,
Chennai 600 009.

2.The Commissioner,
Rural Development and Panchayat Raj Department,
Panagal Building,
Saidapet,
Chennai 15.

3.The District Collector,
Ramanathapuram District,
Ramanathapuram.

4.The Assistant Director of Panchayats,
Ramanathapuram,
Ramanathapuram District.

5.The Block Development Officer,
Kamudhi Panchayat,
Ramanathapuram District.

6.The Commissioner,
Kamudhi Panchayat Union,
Ramanathapuram District.

7.The Principal Accountant General,
(Accounts and Entitlements),
No.361, Anna Salai,
Chennai 18.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to grant pension to the petitioner, by counting 50% of



the petitioner's service in the post of Part Time Panchayat Clerk from 21.03.1984 to 14.12.2001 along with a regular service from 15.12.2004 to 31.07.2013, within the time frame.

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For Petitioner : Mr.P.Saravana Kumar
for Mrs.P.Kalaiyarasi Bharathi
For R1 to R4 : Mr.M.Muthugeethayan
Special Government Pleader
For R5 : Mr.S.Kumar
For R7 : Mr.P.Gunasekaran

O R D E R

This writ petition has been filed for a direction to the respondents to grant pension to the petitioner, by counting 50% of the petitioner's service in the post of Part Time Panchayat Clerk from 21.03.1984 to 14.12.2001 along with a regular service from 15.12.2004 to 31.07.2013.

2. The case of the petitioner is that he was selected to the post of Junior Assistant for the year 1998 - 1999 and he was appointed as the Junior Assistant on 15.12.2004. The petitioner's service was regularised from 15.12.2004. Subsequently, he was promoted to the post of Assistant and he reached the age of superannuation on 31.07.2013. However, the respondents have not considered the petitioner's service as Part Time Panchayat Clerk and Panchayat Assistant, by counting 50% of his services, for the purpose of pension stating that his service was regularised only from 15.12.2004 and rejected his claim for pension. Hence, the present writ petition has been filed with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that as per Rule 11(4) of the Tamil Nadu Pension Rules, the petitioner is entitled to count his past services rendered prior to his regularisation. Hence, he prayed for allowing of this writ petition.

4. The learned Special Government Pleader appearing for the respondents 1 to 4 would submit that the issue involved in the present writ petition is no more *res integra* and the Full Bench of this Court has already held that the persons, who are appointed on or after 01.04.2003 are not entitled to pension. In support of his contentions, the learned Special Government Pleader has relied on a decision of the Full Bench of this Court in W.A.No.158 of 2016 etc., batch, dated 03.12.2019, wherein, in Paragraph No.45, it is stated 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 W.A.No.158 of 2016 etc., batch 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.
- 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 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 Service 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."

5. Heard the learned counsel for the petitioner, learned Special Government Pleader and the learned counsels appearing for the respondents and perused the materials available on record.

6. The facts in the present case are not in dispute. Admittedly, the petitioner was appointed as Panchayat Clerk on 21.03.1984. However, his appointment was regularised only in the year 2004. Prior to that, the petitioner employed as Temporary Panchayat Assistant and he retired from service on 31.07.2013. The claim of the petitioner is that he is entitled to count the past services rendered prior to regularisation, as per G.O.(Ms.)No.402, dated 25.08.2010. However, the very same issue had come up for consideration before the Full Bench of this Court in W.A.No.158 of 2016 etc., batch, dated 03.12.2019 and on perusal of the above said decision, particularly, sub para (iv) of Paragraph No.45 makes it clear that the 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 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.

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7. In view of the above said decision, the prayer sought for by the petitioner is misconceived. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(P & A)

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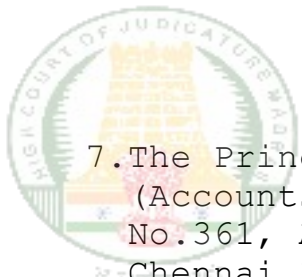
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Sub Assistant Registrar(CS)

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To

- 1.The Secretary Government of Tamilnadu,
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Chennai 600 009.
- 2.The Commissioner,
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7.The Principal Accountant General,
(Accounts and Entitlements),
No.361, Anna Salai,
Chennai 18.

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+1 CC to M/s.SPL GP (SR-13330[F] dated 24/03/2021)

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TR(24.04.2021) 5P 9C