



W.P.No.22623 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.22623 of 2013

A.Kalamani

...Petitioner

-Vs-

- 1.The Government of Tamil Nadu,
Rep. by its Principal Secretary to Govt.,
Finance (Pension) Department,
Fort St. George, Chennai - 600 009.
- 2.The Government of Tamil Nadu,
Rep. by its Secretary to Govt.,
Rural Development and Panchayat
Raj Department,
Fort St. George, Chennai - 600 009.
- 3.The Principal Accountant General
(Accounts & Entitlements) Tamil Nadu,
361, Anna Salai, Chennai - 600 018.
- 4.The District Collector,
Cuddalore District,
Cuddalore.
- 5.The Commissioner,
Mangalur Panchayat Union,
Mangalur, Cuddalore District.



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6.The Block Development Officer,
Panchayat Union Office,
Mangalur, Cuddalore District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Government Letter of the 1st respondent made in Letter No.631/FS/T/Pension/2012, dated 10.05.2012 and the consequential order of the 3rd respondent made in his proceedings Pen03/II/10308018/ADK, dated 10.04.2013 and quash the same and direct the respondents to pay the revised pension in terms of G.O.Ms.No.39, Rural Development and Panchayat Raj (E5) Department, dated 13.06.2011 to the petitioner with all consequential benefits.

For Petitioner	: Mr.A.Asuvathaman
For R1	: Mr.V.Ravi, Spl. GP
For R2 & R4	: Mr.Nanmaran, Addl. GP
For R3	: Mrs.Hema Muralikrishnan
For R6	: Mr.S.Arumugam, Govt. Advocate
For R5	: No Appearance



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ORDER

WEB COPY The grievance of the petitioner is that 50% of his part time service should be taken into account, for the purpose of pensionary benefits, which has not been adopted by the respondents.

2. The petitioner had joined as part time Clerk in the Panchayat Union Office on 01.11.1981. Later, he was posted as Panchayat Assistant on full time basis, with effect from 01.01.1991.

3. The issue as to whether the part time services of a Government employee can be taken into account, for the purpose of calculating the pensionary benefits, came up before this Court in the case of ***Government of Tamil Nadu, Public Works Department Vs. R.Kaliyamoorthy reported in (2019) 6 CTC 375***, wherein, it was held that 50% of the services rendered by the temporary or permanent employees requires to be counted for the purpose of conferment of pensionary benefits. The relevant portion of the judgement reads as follows:-

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

i) Those who are freshly appointed on or after



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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.

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."



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4. Following the decision of the Hon'ble Full Bench of this Court, several batch of cases came to be allowed, whereby, the cases of the part time Panchayat Clerks were also considered, in the light of the Full Bench decision and 50% of their part time services were taken into account, for the purpose of conferment of pensionary benefits. Some of the decisions rendered are in the cases of ***The Government of Tamil Nadu, Rural Development & Panchayat Raj Department and others Vs. K.Duraisamy and others passed in W.A.No.430 of 2021, dated 15.04.2021; The Government of Tamil Nadu, Rural Development Department and others Vs. V.Natesan passed in W.A.No.2358 of 2021, dated 16.12.2021.***

5. A learned single Judge of this Court, in the case of ***I.Shanthi Vs. The Principal Secretary to Government of Tamilnadu, Rural Development & Panchayat Raj Department and others passed in W.P. (MD) NO.1654 of 2021, dated 05.04.2022*** had also adopted the aforesaid decisions and extended the pensionary benefits, by directing the concerned Department to calculate 50% of the part time services of the employees. As such, the petitioner herein would also be entitled for the benefits of the decision of the Hon'ble Full Bench.



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WEB COPY 6. In the light of the above observations, the impugned orders dated 10.05.2012 and 10.04.2013 are quashed. Consequently, there shall be a direction to the respondents to calculate 50% of the petitioner's part time serviced as Panchayat Clerk, for the purpose of conferment of pensionary benefits and accordingly, disburse the arrears of pension, which order shall be passed atleast within a period of 6 weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition stands allowed. No costs.

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Index:Yes/No
Internet:Yes/No
Speaking order/Non-speaking order
hvk



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M.S.RAMESH,J.

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