



W.P.No.15401 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.15401 of 2020

V.Thangamani

.... Petitioner

-Vs-

- 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 600 015.
- 3.The District Collector
Krishnagiri District.
- 4.The Principal Accountant General (A&E)
Tamil Nadu, No.361, Anna Salai
Chennai 600 018.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to count 50% of services rendered by the petitioner in the post of Part Time Panchayat Clerk from 01.04.1986 till 28.01.1991 and Panchayat Assistant from 29.01.1991 to 28.12.2000 for the purpose of granting pension along with regular service from 29.12.2000 till 31.03.2020 in accordance with the directions given in Para 45 (iii) of the judgment rendered by Full Bench of this Hon'ble Court in W.A.No.158/2016 etc., dated 03.12.2019.



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For Petitioner : Mrs.Dakshayini Reddy
for Mr.C.Mahendran

For Respondents : Mr.M.Rajendran
Additional Government Pleader
- for RR 1 to 3
Mrs.J.Sreevidya, Standing Counsel – for R4

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the respondents to count 50% of services rendered by the petitioner in the post of Panchayat Clerk from 01.04.1986 till 28.01.1991 and Panchayat Assistant from 29.01.1991 to 28.12.2000 for the purpose of granting pension along with regular service from 29.12.2000 till 31.03.2020 in accordance with the directions given in Para 45 (iii) of the judgment rendered by Full Bench of this Hon'ble Court in W.A.No.158/2016 etc., dated 03.12.2019.

2. The petitioner was initially working as Part Time Panchayat Clerk from 01.04.1986 to 28.12.2000. Thereafter, by proceedings dated 22.10.2003, the petitioner was promoted and posted as Junior Assistant by regularizing his services as Junior Assistant from 28.12.2000 and in that capacity as Junior Assistant, the petitioner was working for 20 years and retired on superannuation on 31.03.2020. After his retirement, the pension benefits were paid to the petitioner by calculating the pensionable period of the petitioner's service only



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with effect from 28.12.2000 to 31.03.2020 and thereby the earlier service as Panchayat Clerk from 01.04.1986 till 28.12.2000 has not been taken into account.

3. In order to take into account the said service, at least 50% of the service as qualifying service for the purpose of calculating the pensionary benefits, the petitioner has given a representation to the respondents and since the same has not been considered, the petitioner has approached this Court by filing this writ petition.

4. Learned counsel appearing for the petitioner has submitted that, the issue as to whether 50% of the service rendered by the petitioner as Panchayat Clerk prior to his absorption on regular basis whether would be taken into account for the purpose of calculating the total pensionable service or not is no more *res integra*. In this regard, number of orders have been passed by this Court in the Principal Seat as well as Madurai Bench and based on all those orders, having accepted the decision of this Court, the Government had passed several Government Orders and two latest orders passed in this regard has been relied upon by the learned counsel for the petitioner. One is G.O.Ms.No.82, Rural Development and Panchayat Raj (E5) Department dated 07.07.2022 by which at least six persons placed like the petitioner who had already approached this Court by filing writ petitions got an order with a direction to the respondents to



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consider their plea. Therefore, 50% services rendered as Panchayat Clerk on part time basis shall be taken into account for the purpose for calculating the total qualifying service. Subsequently the said orders since have been implemented, all those petitioners seems to have filed Contempt Petitions respectively and only at that juncture, the Government had come forward to issue and G.O.(Ms) No.82 dated 07.07.2022.

5. A very recent Government Order dated 27.08.2022 issued by the very same Department in G.O.(Ms) No.99 also has been relied upon by the learned counsel for the petitioner, wherein the following import can be noticed.

" 4. The Government have examined the proposal of the Director of Rural Development and Panchayat Raj based on the various orders of the Hon'ble High Court of Madras and Hon'ble Madurai Bench of Madras High Court and decided to accept it. Accordingly, permission is accorded to count 50% of service rendered in the post of part-time panchayat clerk along with regular service for pensionary benefits in respect of 50% litigants whose details are annexed to this Government order, who were absorbed as Junior Assistant / Rural Welfare Officer Grade-II / Cashier prior to 01.04.2003, as a "Special Case" subject to the condition that the pension subject to the condition that the pension enhancement due to counting of 50% service rendered in the post of part-time panchayat clerk



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has to be fixed notionally from the date of retirement of the individuals with monetary benefit from the date of issue of this order.”

6. Relying upon the above Government Orders and earlier orders passed in this regard of course pursuant to the orders passed in number of cases by this Court, the learned counsel for the petitioner seeks the indulgence of this Court to extend the same benefits to the petitioner by calculating 50% of past services rendered as Panchayat Clerk from 01.04.1986 till 28.12.2000 and accordingly his pensionary benefits shall be revised and be paid to the petitioner.

7. However, Mr.Rajendran learned Additional Government Pleader appearing for respondents 1 to 3 would submit that insofar as the two Government Orders relied upon by the learned counsel for the petitioner are concerned, though the Government Orders have been passed, it is not a general Government Order extending such benefit to everyone who are similarly placed. Therefore, relying upon those Government Orders, such a benefit cannot be expected to be extended to the petitioner.

8. Learned Additional Government Pleader also submits that, insofar as the petitioner's case is concerned, since he rendered service from 01.04.1986 to 22.10.2003 and the regularization order as Junior Assistant was passed only on



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22.10.2003 ie., after the cut off date of 01.04.2003 the benefit extended to those people, cannot be extended to the petitioner. Therefore, for all the above reasons the learned Additional Government Pleader appearing for the respondents seeks dismissal of the writ petition.

9. I have considered the submissions made by the learned counsel for both sides and have perused the materials available on record.

10. As has been rightly pointed out by the learned counsel for the petitioner, the issue is as to whether 50% of the services rendered by the petitioner as Panchayat Clerk on part time basis whether to be taken into account as total qualifying service for pensionable service is no more *res integra* as very many orders have been passed by this Court.

11. As per the said orders passed by this Court from time to time, those orders having having been accepted, the Government has implemented those orders. Out of the two Government Orders cited by the learned counsel for the petitioner one is a very recent Government Order, under which more than 50 people have been given the benefit of calculating 50% of the past service rendered by the respective employees.



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12. Coming to the facts of the petitioner's case, he was working as Panchayat Clerk from 01.04.1986 to 28.12.2000 and by order dated 22.10.2003 promotion was given to the petitioner as Junior Assistant and his services were regularized from 29.12.2000 and on the basis of the regular service as Junior Assistant from 29.12.2000 till 31.03.2020 the petitioner has been working and retired on attaining superannuation on 31.03.2020.

13. Therefore, insofar as the cut off date of 01.04.2003 is concerned, before which since the petitioner's services as Junior Assistant has been regularized retrospectively by the order dated 22.10.2003 by the respondents, it is covered by the Scheme under which before 01.04.2003 since regularisation has been made, 50% past service rendered by the petitioner shall also be calculated for the full pensionable service.

14. Moreover, in the Government Orders referred to above, especially G.O.Ms.No.99 in Para 4 as has been extracted above, even the Government having accepted the various orders passed by this Court, directed to calculate 50% of the past service rendered by such employee for pensionable service and the pensionable benefits shall be notionally calculated from the date of retirement of the respective employees and the monetary benefits will be given only from the date of issuance of the Government Order ie., G.O.Ms.No.99 dated



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27.08.2022. Hence, certainly the petitioner would be entitled to get the said benefit of revised pension based on the calculation of the 50% service rendered by him from 01.04.1986 to 28.12.2000 of course notionally from the date of retirement till the date of issuance of the Government Order or at least till the date of the order of this Court ie., today and prospectively the petitioner would be entitled to get the monetary benefits.

15. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

- That there shall be a direction to the respondents to calculate 50% of the past services rendered by the petitioner as Panchayat Clerk from 01.04.1986 to 28.12.2000 and calculate the pensionable service along with his further service as Junior Assistant till 31.03.2020 as total pensionable service.
- Accordingly the pensionary benefits shall be revised and paid to the petitioner. After calculating the revised pension, the arrears need not be paid till today, as till today the arrears payable to the petitioner can be treated only as notional benefit. The petitioner is entitled to get the revised pensionary benefit prospectively strictly in consonance with G.O.Ms.No.99



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R. SURESH KUMAR, J.

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