



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2022

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.20413 of 2020

P.Anjalam

... 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,
Salem District, Salem.

4.The Principal Accountant General (A & E) Tamil Nadu,
No.361 Anna Salai,
Chennai 600 018.

... Respondents

PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing the respondents to count 50% service rendered by the petitioner's husband in the post of part time Panchayat clerk from 03.04.1974 and 31.12.1985 along with regular service from 01.01.1986 till 03.04.2009 for the purpose of pension for the period between 30.04.2009 and 26.12.2009 and granting family pension in accordance with the directions given by the Hon'ble Division Bench judgment in W.A.No.259 of 2016 etc., dated 10.03.2016.

For Petitioner: M/s.T.Hemalatha

For R1 to R3 : Mr.P.Balathandayutham
Special Government Pleader

For R4 : Mr.V.Vijay Shankar



ORDER

This writ petition has been filed to direct the respondents to count 50% service rendered by the petitioner's husband in the post of part time Panchayat clerk from 03.04.1974 and 31.12.1985 along with regular service from 01.01.1986 till 03.04.2009 for the purpose of pension for the period between 30.04.2009 and 26.12.2009 and to grant family pension in accordance with the directions given by the Hon'ble Division Bench judgment in W.A.No.259 of 2016 etc., dated 10.03.2016.

2(i).The learned counsel appearing for the petitioner would submit that initially the husband of the petitioner was appointed as part time Panchayat Clerk in Bethanaickkenpalli Panchayat, Aathur Taluk, Salem District, with effect from 03.04.1974. Subsequently, he was appointed as Junior Assistant on 01.01.1986 and further he has attained age of superannuation on 30.04.2009 and subsequently died on 26.12.2009.

2(ii)Further, the learned counsel for the petitioner submitted that part/full time Panchayat Clerk were made as Panchayat Assistant Grade I & II respectively from 01.01.1991. The petitioner was given family pension by counting the services rendered by her husband between 01.01.1986 to 30.04.2009 but the part time services rendered by her husband from 03.04.1974 and 31.12.1985 was not taken into account.

2(ii) Further, he submitted that the Government of Tamil Nadu has issued G.O.Ms.No.39 Rural Development Department and Panchayat Raj dated 13.06.2011 in which, it is held that the retired employees were given benefit of counting 50% of part time Panchayat service. Subsequently the said guidelines were modified by under G.O.Ms.No.77 Rural Development and Panchayat Raj (PA4) Department dated 12.07.2013 by holding that those employees who retire prior to the date of issuance of government order are entitled to the benefit of the earlier government order. In the instant case, though the husband of the petitioner was retired on 30.04.2009, the respondents refused to take 50% service of part time Panchayat service viz., from 03.04.1974 and 31.12.1985 by virtue of G.O.Ms.No.77 Rural Development Department dated 12.07.2013 issued by the first respondent.

3(iii).Further, he would rely upon the various decisions of this Court in W.A.No.259 of 2016, dated 10.03.2016, W.A.No.2358 of 2021, dated 16.12.2021 & W.A.No.612 of 2016, dated 24.06.2016, wherein, it has been categorically held that the employees who got absorbed as regular government servant prior to 01.04.2003 are entitled to count 50% of the services rendered by them as part time Panchayat Clerk should be taken into account while calculating the pension. But the first



respondent had refused the same. Hence, the present writ petition.

4. The learned Special Government Pleader, as per the counter filed by the respondents has submitted that the part time panchayat clerks were not having service rules according to the Article 309 of the Constitution of India hence 50% service of the husband of the petitioner in the Panchayat secretary post was not taken into account for the benefit of pension to the retired petitioner's husband and family pension of the petitioner. The petitioner's husband only served as part time Panchayat clerk and thus, as per para 4(b) of G.O.Ms.No.77 Rural Development and Panchayat Raj Department, dated 12.07.2013, the petitioner's husband's 50% of services in the part time Panchayat Secretary post during 03.04.1974 to 31.12.1985 was not taken into account for the benefit of pension along with regular service for the purpose of retired petitioner's husband's pension calculation.

5. Heard the learned counsel on either and perused the materials placed on record.

6. In view of the above facts and circumstances of the case and the various decisions rendered by this Court, this Court has no hesitation to come to the conclusion that the petitioner is entitled to count 50% of the service rendered by her husband in the post of part time Panchayat clerk from 03.04.1974 and 31.12.1985 along with regular service from 01.01.1986 till 03.04.2009 for the purpose of pension for the period between 30.04.2009 and 26.12.2009.

7. Therefore, the respondent is directed to consider the claim of the petitioner and to pass appropriate orders for revised pensionary benefits to the petitioner on merits in accordance with law as early as possible.

8. In the light of the aforesaid discussions made in the preceding paragraphs, this writ petition stands disposed of with the above direction. No costs.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

Dua



To

1.The Principal Secretary to Government,
The Government of Tamil Nadu
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,
Salem District, Salem.

4.The Principal Accountant General (A & E) Tamil Nadu,
No.361 Anna Salai,
Chennai 600 018.

+lcc to Mr.K.S.Viswanathan, Advocate, S.R.No.9266
+lcc to the Government Pleader, S.R.No.9204

W.P.No.20413 of 2020

GPL(CO)
SB(25/02/2022)