



W.P.No.1577 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.1577 of 2020

A. Krishnaveni

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

... Respondents



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PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to extend the benefit of orders passed by Division Bench of this Court in W.A.No.431 of 2016 dated 11.04.2016 and W.A.No.612 of 2016 dated 24.06.2016 by counting 50% services rendered by the petitioner's husband in the post of part time Panchayat clerk from 01.10.1970 till 27.12.1990 for the purpose of granting pension along with regular service from 28.12.1990 till 30.11.2007 along with regular service for the purpose of granting pension.

For Petitioner : Mr.V.Suthakar
For Respondents : Mr.D.Gopal
Government Advocate

ORDER

The petitioner has filed this petition seeking direction to the respondents to extend the benefit of orders passed by Division Bench of this Court in W.A.No.431 of 2016 dated 11.04.2016 and W.A.No.612 of 2016 dated 24.06.2016 by counting 50% services rendered by the petitioner's husband in the post of part time Panchayat clerk from 01.10.1970 till 27.12.1990 for the purpose of granting pension along with regular service from 28.12.1990 till 30.11.2007 along with regular service for the purpose of granting pension.



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3. The learned counsel for the petitioner submitted that similar issue was considered by this Court in W.A.No.431 of 2016 wherein by order dated 11.04.2016 the Division Bench of this Court directed the respondents to consider the claim of the petitioners therein in the light of G.O.Ms.No.39 and the subsequent G.O.Ms.No.77. The Full Bench of this Court in W.A.No.158 of 2016 batch etc., dated 03.12.2019 also endorsed the same view and therefore similar order may be passed in this writ petition also.

4. The learned Government Advocate, on going through the earlier order passed by this Court on 11.04.2016 and 03.12.2019, submitted that similar orders may be passed.

5. In the order dated 11.04.2016, passed by this Court in W.A.No.431 of 2016, in paragraph No.5, it was held as follows:-

“5. In the case on hand, indisputably, the respondents 1 and 2 were absorbed as Junior Assistant before 01 April 2003, subsequent to which the first respondent was promoted as Assistant and retired from service on 31st December 2009 and the



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second respondent retired as Cashier on 30th June 2007. Thus, the respondents 1 and 2 are entitled to the benefit as granted in G.O.Ms.No.39 and the subsequent Government order in G.O.Ms.No.77 would not be applicable to those employees, who were entitled to the benefit before issuance of the said Government order”.

6. The Hon'ble Full Bench of this Court in W.A.No.158 of 2016 batch etc., dated 03.12.2019 also confirmed the view and the relevant portion of the judgment is extracted as hereunder:-

46. 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.

(iii) In case, a Government employee/servant had also rendered service in non-provincialised service, or on consolidated



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pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of service rendered shall be counted for the purpose of conferment of pensionary benefits.

7. As the petitioner herein is also similarly placed as that of the petitioners in the above cited judgments, the writ is disposed of on the same lines. No costs.

16.07.2023

dpq
Index : Yes/No
Speaking Order : Yes/No



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J. SATHYA NARAYANA PRASAD, J.

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