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Writ Petition No.2101 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.2101 of 2023

and

W.M.P.No.2190 of 2023

A.Ramalingam
S/o.Arul Pragasam

... Petitioner

Vs.

1.The State of Tamil Nadu
represented by its
Secretary to Government,
Rural Development Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Director of Rural Development,
Panagal Malagai,
Saidapet, Chennai - 600 015.

3.The District Collector,
Kallakurichi District,
Kallakurichi.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
seeking for a Writ of Certiorarified Mandamus calling for the records
regarding G.O.Ms.No.77, Rural Development Department, dated
12.07.2013 on the file of the first respondent and quash the same and



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direct the respondents to provide the pension to the petitioner as per G.O.Ms.No.39, Rural Development Department, dated 13.06.2011.

For Petitioner : Mr.S.Jaganathan

For Respondents : Mr.Ru.Dinesh Rajkumar
Additional Government Pleader

ORDER

This writ petition has been filed challenging G.O.Ms.No.77, Rural Development Department, dated 12.07.2013, issued by the first respondent and for a consequential direction to the respondents to pay pension to the petitioner as per G.O.Ms.No.39, Rural Development Department, dated 13.06.2011.

2. The case of the petitioner is that he was appointed as a part time Panchayat Clerk on 31.12.1981 and he worked in that position till 31.12.1990. Thereafter, he was made permanent and ultimately, he retired from service on 31.05.2022 in the post of Deputy Block Development Officer. The grievance of the petitioner is that the period from 31.12.1981 to 31.12.1990 was not taken into consideration for computation of pension on the ground that the petitioner was working as part time



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employee during that period and G.O.Ms.No.77, Rural Development Department, dated 12.07.2013, was put against the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court seeking for appropriate direction.

3. Heard Mr.S.Jaganathan, learned counsel for the petitioner and Mr.Ru.Dinesh Rajkumar, learned Additional Government Pleader, appearing for respondents.

4. The issue that is involved in the present writ petition is squarely covered by the earlier order passed by this Court in a batch of writ petitions in W.P.No.1243 of 2019 *etc.* batch, dated 28.02.2020. For proper appreciation, the relevant portions in the order are extracted hereunder:

"6. A batch of Writ Appeals came up before the First Bench on 10.02.2020 in Writ Appeal Nos.1218 of 2018 *etc.* batch and the First Bench was pleased to take note of the Full Bench Judgment of this Court and had disposed of all the Writ Appeals in line with Paragraph 45 of the Full Bench Judgment. Paragraph 45 of the Full Bench judgment is extracted hereunder.

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

(i) Those, who are freshly appointed on or after 1.4.2003 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 6.8.2003.



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(ii) *Those Government servants/Employees appointed prior to 1.4.2003 whether on Temporary or Permanent basis in terms of Rule 19(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 1.4.2003, 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 1.4.2003 and absorbed into Regular service after 1.4.2003 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 1.4.2003 but were absorbed in Regular service after 1.4.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for Pension.”*

7. In view of the above, there is no reason for this Court to take a different approach in dealing with all these cases and this Court would follow the judgment of the Full Bench and the subsequent Division Bench and dispose of all these Writ Petitions.

8. Accordingly, all the Writ Petitions are disposed of in terms of paragraph 45 of the Full Bench judgment that has been referred supra, and it shall be made applicable as per the respective categories involved in each of the Writ Petition. If the respondents find that the petitioners are fulfilling the requirements as contained in the judgment of the Full Bench, consequential benefits shall be granted without driving the



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petitioners back to the Court for claiming the same. In all the Writ Petitions, the respective respondents shall take a decision and pass appropriate orders within a period of three months from the date of receipt of copy of this order."

5. In the present case, the petitioner was absorbed as a Junior Assistant on 21.11.2001, which is much prior to the cut-off date that was fixed by this Court i.e. 01.04.2003. Hence, G.O.Ms.No.77, Rural Development Department, dated 12.07.2013, cannot be put against the petitioner. The petitioner has to be considered in line with the similarly placed employees, who were given the benefit since they were absorbed in the regular service before 01.04.2003.

6. In the light of the above discussion, this writ petition is disposed of with a direction to the respondents 1 and 2 to deal with the case of the petitioner in line with the earlier order passed by this Court in W.P.No.1243/2019 *etc.* batch and consider the case of the petitioner in line with the direction that was given to similarly placed employees. The first respondent shall take a decision in this regard within a period of twelve (12) weeks from the date of receipt of a copy of this order. The petitioner is directed to make a fresh representation to the respondents 1 and 2 along with all the relevant documents and also a copy of this order.



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N.ANAND VENKATESH, J

gm

This Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

30.01.2023

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order
gm

To

- 1.The Secretary to Government,
Rural Development Department,
Secretariat, Fort St.George,
Chennai - 600 009.
- 2.The Director of Rural Development,
Panagal Malagai,
Saidapet, Chennai - 600 015.
- 3.The District Collector,
Kallakurichi District,
Kallakurichi - 606 213.

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