



W.P.No.13945 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2024

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.13945 of 2021

V.Bhoopathy

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Petitioner

/vs/

1. The Government of Tamilnadu,
Represented by its
Principal Secretary to the Government,
Rural Department & 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,
Tiruvannamalai District,
Tiruvannamalai.
 4. The Principal Accountant General (A & E) Tamil Nadu,
No.361, Anna Salai,
Chennai – 600 018.
- ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India
to issue a writ of mandamus to direct the respondents to count 50%



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services rendered by the petitioner in the post of part time Panchayat clerk from 20.11.1982 to 26.11.1996 for the purpose of granting pension along with the regular service from 27.11.1996 till 30.09.2014 in accordance with the directions given by the Division Bench Judgment 259/2016 etc., dated 10.03.2016.

For Petitioner ... Ms.T.Hemalatha

For Respondents ... Mr.T.Chezhiyan
Additional Govt. Pleader for R1 to R4

ORDER

Heard Ms.T.Hemalatha, the learned counsel for the petitioner and Mr.T.Chezhiyan, the learned Additional Government Pleader for the R1 to R4.

2. The petitioner has filed this writ petition seeking a writ of mandamus directing the respondents to count 50% of services rendered by him in the post of part time Panchayat Clerk from 20.11.1982 to 26.11.1996 for the purpose of granting pension along with the regular service from 27.11.1996 till 30.09.2014 in accordance with the directions



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given by the Division Bench Judgment 259/2016 etc., dated 10.03.2016.

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3. Ms.T.Hemalatha, the learned counsel for the petitioner, submitted that the petitioner was originally appointed as part time Panchayat Clerk in Tanipadi Panchayat from 20.11.1982 and on 01.01.1991 he was re-designated as Panchayat Assistant; later on 27.11.1996 the petitioner was appointed as Physical Education Teacher in Government High School, Palayanur Village with effect from 27.11.1996; on 07.08.2008, the petitioner was appointed as School Assistant to Government Higher Secondary School.

4 The learned counsel for the petitioner attracted the attention of the Court to G.O.Ms.No.39, Rural Development Department and Panchayat Raj dated 13.06.2011, which speaks about the addition of 50% of the past services for the purpose of pension for all those person who have been regularized on or before 01.04.2003 and who have been working as Panchayat Assistant in non-provincialised services. The petitioner claims that the benefit is available to all those persons who have been working in



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the said capacity even though they have been holding Part Time post.

However, G.O.Ms.No.39 was subsequently cancelled by issuance of another Government Order in G.O.Ms.No.77, Rural Development and Panchayat Raj (PA4) Department dated 12.07.2013. The said Government Order was found to be illegal by the orders of this Court and the same is confirmed by the Division bench of this Court vide judgment dated 10.03.2016 in W.A.No.259 of 2016. In the said judgment it is held as under:

“ .. 5. In the case on hand, indisputably, the respondents were absorbed as Junior Assistants before 01 April 2003, and they also retired from service. Thus, the respondents 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 for those employees, who were entitled to the benefit before issuance of the said Government Order.”

5. Mr.T.Chezhiyan, the learned Additional Government Pleader, submitted that above Government Orders and the judgment of this Court in the Writ Appeal is applicable to all those persons who have been subsequently regularized by being absorbed as Junior Assistant before 01.04.2003 and not for persons like the petitioners who have been freshly



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appointed as Physical Education Teacher at Government High Schools through different recruitments.

6. However, the learned counsel for the petitioner submitted that the petitioner's services have been terminated on 11.09.1996 and he got his appointment as Physical Education Teacher on 27.11.1996.

7. There is no quarrel on the point that the petitioner has been working as part time Panchayat Clerk before he was appointed as Physical Education Teacher on 27.11.1996. The Government Orders and the writ appeal referred above also only speaks about those persons who are rendering their services in the capacity of Panchayat Clerk and who have been subsequently absorbed as “Junior Assistant”. However the learned counsel for the petitioner submitted that even as per the Government Order in G.O.Ms.No.408 Finance (Pension) Department dated 25.08.2009 all those persons who have been regularized on or before 01.04.2003 can be given with the benefit of 50% of their past services and hence it is applicable to the petitioner as well.



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8. There cannot be any misconception of Government Orders which have been issued from time to time for including the 50% of past services of persons who have been working in non-provincialised service and later absorbed in regular post like “Junior Assistant” on or before 01.04.2003. Even G.O.Ms.No.408 Finance (Pension) Department dated 25.08.2009 does not speak about the post in which the persons who have been working in non-provincialised services have got regularized subsequently. The fact remains that the persons who have rendered their services in non-provincialised service ought to have been regularized by virtue of any of the Government Orders issued in this regard and by creation of permanent post for the purpose of absorption. But here is a case where the petitioner has been shown with a different appointment all together by participating in different recruitment for Physical Education Teacher.

9. The petitioner's appointment as Physical Education Teacher is not by virtue of absorption of his previous services rendered in Panchayat Clerk in any permanent post created in that regard. Having participated in a different recruitment and got an appointment for a different post, the



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petitioner cannot harp upon the earlier Government Orders issued in respect of Panchayat Clerks and claim that he is entitled to count his services rendered as part time basis as Panchayat Clerk to be included for pensionary benefits. The facts of the present case is entirely different from the facts involved and the position of law settled in W.A.No.259 of 2016. Hence, the petitioner is not entitled to the relief as sought.

10. Accordingly, this writ petition is dismissed. No costs.

19.03.2024

Index: Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No
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R.N.MANJULA ,J.

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To:

1. The Principal Secretary to the Government,
Government of Tamilnadu,
Rural Department & Panchayat Raj Department,
Fort St. George, Chennai – 600 009.
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