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W.A.No.2660 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.A.No.2660 of 2025

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
Karur District, Karur.
- Vs.
1. G.Ravi
 2. The Principal Accountant General
(A&E) Tamil Nadu, No.361, Anna Salai
Chennai – 600 018.
- .. Appellants
- .. Respondents

Prayer: Appeal filed under Section 5 of the Limitation Act, against the order dated 18.02.2025 in W.P.No.26306 of 2023.

For the Appellants : Mr.R.Raman Laal
Additional Advocate General
assisted by Mr.E.Vijay Anand
Additional Government Pleader

For the Respondents : Mr.V.Vijayashankar
Standing Counsel for R2

JUDGMENT

(Judgment of the Court was made by *R.SURESH KUMAR, J.*)

This intra court appeal has been directed against the order passed by the Writ Court dated 18.02.2025 made in W.P.No.26306 of 2023.



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2. That the first respondent was the writ petitioner, who was appointed as a part-time Village Panchayat Clerk on 01.12.1980. His job was a part-time job and thereafter, it has been re-designated as Panchayat Assistant with effect from 01.11.1991. In the year 1995, he has been appointed as Junior Assistant on regular vacancy by absorbing him with effect from 01.02.1995.

3. While that being so, after his retirement, when the pensionary benefits to be calculated to him was considered, it was to be considered on the basis of the Government Order in G.O.Ms.No.39, Rural Development and Panchayat Raj Department dated 13.06.2011¹, in and by which, the retired employees were given the benefit of counting 50% of their past services that they have rendered as part-time Panchayat Clerk or Panchayat Assistant.

4. That concession, extended to those part-time employees to count 50% of their past services, has been taken away by issuance of the Government Order in G.O.Ms.No.77, Rural Development and Panchayat Raj (PA4) Department dated 12.07.2013². By virtue of G.O.Ms.No.77, the benefit of calculating 50% of the past services rendered by the part-time employee since has been taken away,

¹ For brevity, hereinafter referred as "G.O.Ms.No.39".

² For brevity, hereinafter referred as "G.O.Ms.No.77".



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such service rendered by the first respondent/writ petitioner between 1980 and 1991 had not been taken into account for total pensionable service of the first respondent/writ petitioner.

5. That was the grievance of the first respondent/writ petitioner and in order to redress the same, he approached the Writ Court seeking a writ of mandamus. The learned Writ Court, having considered the aforesaid plea and the factual matrix and having taken note of the law declared by this Court in this regard by the Division Bench judgment made in W.A.No.431 of 2016 as well as the judgment in W.A.No.612 of 2016 dated 24.06.2016, has concluded that, even in respect of the part-time employees, whose past service, to the extend of 50%, could be taken into account as total pensionable service and that is how the writ petition was allowed through the impugned order dated 18.02.2025.

6. The said order though has been assailed in the present intra-Court appeal, in support of this appeal, it was submitted by *Mr.R.Raman Laal*, learned Additional Advocate General appearing for the appellants that, the benefit that has already been extended to the retired employees by calculating maximum of 50% of the past service rendered by them, both for part-time employees as



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well as full-time employees, though was permissible under G.O.Ms.No.39, the Government thought it fit to restrict this benefit only to the full-time employees, accordingly, the Government has come out with G.O.Ms.No.77. Therefore, if the import of G.O.Ms.No.77 is taken into account, such kind of benefits cannot be extended to the part-time employees like the present first respondent/writ petitioner. Therefore, to that extent, the order passed by the learned Single Judge in the writ petition might be erroneous, he contended.

7. We have considered the said submission made by the learned Additional Advocate General appearing for the appellants and have perused the materials placed before this Court.

8. The learned Judge, in the impugned order, has extracted the relevant portions of the two Division Bench judgments made in W.A.No.431 of 2016, as well as the judgment in W.A.No.612 of 2016, which speaks for itself. That apart, in a recent order made in ***The Government of Tamil Nadu and Ors. Vs. A.Duraisamy and Ors.***³, yet another Division Bench, where, one of us (RSKJ) is a party, has discussed this issue elaborately as to the import of G.O.Ms.No.39 as well as G.O.Ms.No.77 and also the point raised in

³ W.A.No.3784 of 2024; Dated: 06.01.2025.



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this regard by the Government side as to Rule 11(4) of the Tamil Nadu Pension Rules, 1978, and this, having been considered by the Division Bench in the said judgment dated 06.01.2025 has ultimately held that, the benefit already conferred on these retired employees by virtue of G.O.Ms.No.39 cannot be taken away by virtue of G.O.Ms.No.77 and in this context, the following orders have been passed by the Division Bench:

"12. By virtue of G.O.(Ms)No.39 dated 13.06.2011, the benefit of calculating 50% of the past service rendered as a Part~time employee of the Village Panchayat also has been conferred on every employee who are entitled to get the same. Such conferment already been made cannot be taken away merely because of an amendment which has come by way of G.O.(Ms)No.77 dated 12.07.2013.

13. Even this position having been understood by the Government by issuing G.O.(Ms)No.77 in Clause (c) of Paragraph No.4 of the Government Order it had been made very clear that, this order is issued without prejudice to the order published in G.O.(Ms)No.39, Rural Development and Panchayat (E5) Department dated 13.06.2011 beneficiaries.

14. Who are all the beneficiaries under G.O.(Ms)No.39 those who rendered Part~time service as well as Full~time service of the Village Panchayat and has been brought as Junior Assistant before 01.04.2003 on regular basis if they retired, thereafter on their superannuation, their past service rendered in the Village Panchayat, 50% of which can be taken into consideration for calculating total pensionary service. This is the benefit that has been conferred under G.O.(Ms)No.39, therefore, those



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who are entitled to get those benefits can be construed as a beneficiaries within the meaning of G.O.(Ms)No.39, therefore, those right which have already been accrued to the beneficiaries of G.O.(Ms)No.39 cannot be taken away by G.O.(Ms)No.77 and in fact it has not been taken away by virtue of clause (c) of Paragraph No.4 of G.O.(Ms)No.77, therefore, merely because G.O.(Ms)No.77 has come into force on 12.07.2013, such a benefit since cannot be taken away and in fact has not been taken away, that denial of such benefit to the first respondent / writ petitioner is unlawful.

15. Moreover, G.O.(Ms)No.39 cannot be construed that it goes against Rule 11(4) of the Tamil Nadu Pension Rules, because Rule 11(4) has already come into effect in the year 2010 itself, therefore, having knowledge over Rule 11(4) of the Pension Rules 1978, consciously the Government has taken a policy decision and issued G.O.(Ms)No.39 on 13.06.2011 in order to give such a benefit to those who worked as even Part~time employees of the Panchayat as an erstwhile employees before they brought in as a regular employee of Junior Assistant. When this being so, even Rule 11(4) of the Tamil Nadu Pension Rules 1978 cannot be put against those beneficiaries who are benefited under G.O.(Ms)No.39, as it is a peculiar benefit which has been consciously given by the Government by taking a policy decision. That is the reason why by issuing the amendment in G.O.(Ms)No.77, the beneficiaries have not been touched upon and the beneficiaries would not be affected and this is also a policy decision taken under G.O.(Ms)No.77. Therefore, the first respondent / first petitioner was a Part~time employee of the erstwhile Panchayat between 1970 and 1985 and from 1985, he has been regular employee of the Junior Assistant and he retired only in the year 2003 and the date on which G.O.(Ms)No.39 comes to effect he was fully entitled to get the benefit and merely because such a benefit has not been given or



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delayed to be given till he filed a writ petition in the year 2020 or till G.O.(Ms)No.77 was passed, it cannot be taken against the said beneficiaries as such right already accrued on the beneficiaries cannot be taken away in view of paragraph No. 4(c) of G.O.(Ms)No.77."

9. Therefore, the issue raised in the present appeal also is squarely covered by these decisions, especially, the last decision made in the case of **A.Duraisamy** (cited *supra*). Hence, we do not have any reason to interfere with the order passed by the Writ Court which is impugned herein.

10. Resultantly, the appeal fails and hence, it is dismissed. However, there shall be no order as to costs. Consequently, C.M.P.No.21368 of 2025 is closed.

(R.S.K., J.) (H.C., J.)
10.09.2025

Speaking Order/Non-Speaking Order
Index:Yes/No
Internet:Yes/No
Neutral Citation:Yes/No

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HEMANT CHANDANGOUDAR, J.
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