



W.P.No.26306 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.02.2025

Coram:

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.26306 of 2023

G.Ravi

... Petitioner

Vs.

1.The Government of Tamil Nadu
rep. By its Principal Secretary to Government,
Rural Development & Panchayat Raj Department,
Fort St.George, Chennai - 09.

2.The Director of Rural Development &
Panchayat Raj, Panagal Building,
Saidapet, Chennai - 15.

3.The District Collector,
Karur District, Karur.

4.The Principal Accountant General (A & E)
No.361, Anna Salai,
Chennai - 18.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to extend the benefit of orders passed by Division Bench of this Court in Writ Appeal No.431 of 2016 dated 11.04.2016 and W.A.No.2358/2021 dated 16.12.2021 by counting 50% services rendered by the petitioner in the post of part time Panchayat clerk from 01.12.1980 till 31.12.1990 for the purpose of granting pension along with service rendered by the petitioner between 01.01.1991 and 31.10.2021.



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For Petitioner : Mr.R.Rajmohan

For Respondents :Mrs.C. Meera Arumugam for R1 to R3
Additional Government Pleader
Mr.P.Manorajan for R4
Standing Counsel

ORDER

The petitioner has filed this Writ Petition seeking for issuance of a Writ of Mandamus, directing the respondents to extend the benefit of orders passed by Division Bench of this Court in Writ Appeal No.431 of 2016 dated 11.04.2016 and W.A.No.2358/2021 dated 16.12.2021 by counting 50% services rendered by the petitioner in the post of part time Panchayat clerk from 01.12.1980 till 31.12.1990 for the purpose of granting pension along with service rendered by the petitioner between 01.01.1991 and 31.10.2021

2. The case of the petitioner is that the petitioner was initially appointed as part time Panchayat Clerk at Papakkapatti Panchayat Union with effect from 01.12.1980. Subsequently, the post of part time Panchayat Clerk is re~designated as Panchayat Assistant with effect from 01.11.1991.

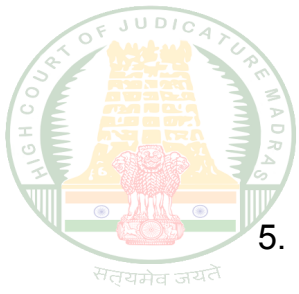
3. The further case of the petitioner is that the present petition has been filed to count 50% services rendered by the petitioner in the post of part time



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Panchayat Clerk from 01.12.1980 till 31.12.1990 along with regular service for the purpose of grant of pension also with service rendered by the petitioner between 01.01.1991 till 31.10.2021 granting family pension and other pensionary benefits. Thereafter, the petitioner was absorbed as Junior Assistant with effect from 01.02.1995.

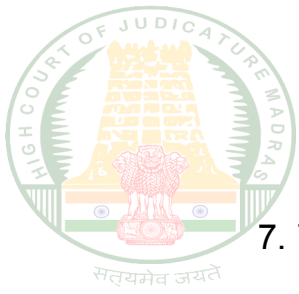
4. The petitioner's further case is that Government of Tamilnadu issued G.O.Ms.No.39 Rural Development Department and Panchayat Raj dated 13.06.2011 in and by which the retired employee were given benefit of counting 50% of part time Panchayat Service. Subsequently, the said guidelines were modified by G.O.Ms.No.77 Rural Development and Panchayat Raj (PA4) Department dated 12.07.2013 by holding those employees who retire prior to the date of issuance of Government Order are entitled to the benefit of earlier Government Order. It is his further case that the issue of counting 50% of part time service was subject matter of various litigations before this Court and the Hon'ble Division Bench of this Court have categorically held that those employees who got absorbed as regular Government Servant prior to 01.04.2003 are entitled to count their 50% of their part time service as Panchayat Clerk.



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5. The further case of the petitioner is that this Court in series of Writ Petitions filed by both retired and serving employees of Rural Development Department challenging G.O.Ms.No.77 viz., W.P.No.32579 of 2013 etc., had set aside the 4(b) of G.O.Ms.No.77 by holding that the employees who got absorbed prior to 01.04.2003 are entitled to count 50% of their part time service along with regular service for the purpose of pension.

6. Moreover, the 1st respondent has also implemented the orders of this Court for 58 individuals by issuing G.O.M.S.No.111 RD and Panchayat Raj Department dated 14.03.2016 and counted their 50% part time service along with regular service for the purpose of pension. After retirement, the petitioner was granted pension by counting 50% of service rendered by him as Panchayat Assistant from 01.01.1991 till 31.01.1995 along with regular service from 01.02.1995 till 31.10.2021. But 50% of services rendered by the petitioner as part time Panchayat Clerk from 01.12.1980 till 31.12.1990 was not taken into account. Hence, the petitioner is also entitled to count his part time service between 01.12.1980 till 31.12.1990 for the purpose of granting pension along with regular service.



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7. The learned counsel for the petitioner submits that issue involved in this Writ Petition has been considered by two different Hon'ble Division Benches of this Court, on the same line in W.A.No.431 of 2016 and W.A.No.2358 of 2021.

8. The learned Additional Government Pleader appearing for the respondents 1 to 3 as well as the learned Standing Counsel appearing for the 4th respondent opposed the contentions raised by the petitioner by stating that the petitioner is not eligible to get the benefits, as contended by the learned counsel for the petitioner.

9. On a perusal of the records it could be seen that the issue involved in this Writ Petition has been elaborately discussed by the Hon-ble Division Bench of this Court in W.A.No.431 of 2016 . The following paragraphs of the Judgement are relevant for the purpose of deciding the writ petition.

“The State Government took a police decision by G.O.Ms.No.39, Rural Development and Panchayat (E5) Department dated 13 June 2011, (for “G.O.Ms.No.39”) whereunder, it was clearly observed that an employee, working in Panchayat as Full Time Clerk or Part Time Clerk and having been absorbed by the Government prior to 01 April 2003, will be entitled to counting 50% of the service as part time employee under the consolidated pay for the purpose of computation of pensionary benefits. Subsequently, the said



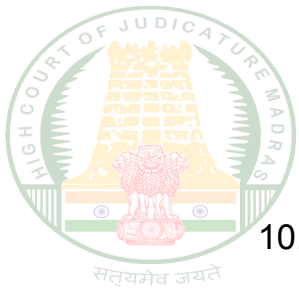
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Government Order, as pleaded by the learned Special Government Pleader, appearing for the appellants, was amended by G.O.Ms.No.77, Rural Development and Panchayat Raj Department dated 12 July 2013 (for Short "G.O.Ms.No.77"), whereunder, counting of 50% of service in case of Part Time Clerks was withdrawn.

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 31 4 December 2009 and the second respondent retired as Cashier on 30 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 learned Single Judge has rightly come to the conclusion that 50% of the service period put in by the respondents 1 and 2 under the consolidated pay by way of part time employment will be computed for pensionary benefits. We do not find any reason to take a view contrary to the one taken by the learned Single Judge.

With the aforesaid observations, the writ appeal stands dismissed. No costs. Consequently, connected C.M.P.is closed."



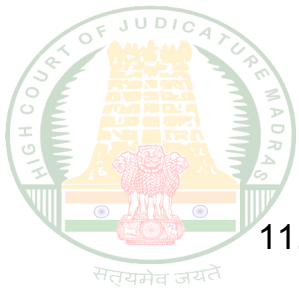
10. Another Hon-ble Division Bench of this Court passed a Judgment on

24.06.2016 in WA.No.612 of 2016, which is extracted hereunder:

“3. The grievance of the first respondent is that the service rendered by him as Part Time Panchayat Clerk was not taken into consideration while calculating pension. Therefore, he filed a writ petition and the same was allowed on 27.06.2014, along with similar with petitions, holding that 50% of the services rendered by the writ petitioners as Part Time Panchayat Clerk should be taken into account while calculating pension and directing the concerned authority to calculate and issue orders granting pension and other benefits within a period of three months and to implement the same within a period of one month thereafter. Aggrieved by the same, the appellants have come up with this appeal.

4. As against the order of the learned Single Judge dated 27.06.2014 3 passed in a batch of writ petitions, one of the writ petitioner, filed W.A.No.431 of 2016. A Division Bench of this Court by Judgment dated 11.04.2016, dismissed the appeal, holding that the learned Single Judge had rightly concluded that the 50% of the services rendered by the petitioners therein under the consolidated pay by way of part time employment has to be taken into account for pensionary benefits.

5. In view of the decision of the Division Bench of this Court dated 11.04.2016 made in W.A.No.431 of 2016, this Writ appeal is also dismissed in terms of the above judgment. There shall be no order as to costs. Consequently, C.M.P.No.8080 of 2016 is closed.”



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11. Since the issue has been decided by the two different Hon'ble Division Bench of this Court on the same line, no exception can be drawn, by considering the arguments advanced by the learned Additional Government Pleader in this regard.

12. In this view of the matter, the Writ Petition stands allowed and the benefits granted by the two different Division Benches 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, respectively are directed to be extended to the petitioner herein also. No costs.

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Index: Yes / No

Internet: Yes/No

ssd

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V.BHAVANI SUBBAROYAN., J.

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