2026:MHC:4318

Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-10-2026

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

WP No. 34284 of 2022

CNR:{HCMA012041612022}

G.Sampath

..Petitioner(s)

Vs

1. The Government of Tamil Nadu
   Rep by its Principal Secretary to Government
   Rural Development and panchayat Raj
   Department,
   Fort St. George, Chennai- 09.

2. The Director of Rural Development
   and Panchayat Raj
   Panagal Building,
   Saidapet, Chennai- 600 015.

3. The District Collector, (PD Section)
   Dharmapuri District, Dharmapuri.

4. The Principal Accountant General (A and E)
   Tamil Nadu
   No.361, Anna Salai,
   Chennai- 600 018.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents to count 50% service rendered by the Petitioner in the post of part time panchayat clerk from 15.03.1984 to 31.01.1991 for the purpose of granting pension along with the part time service rendered by the petitioner between 01.01.1991 and 28.12.2000 together with his regular service rendered between 22.12.2000 to 31.01.2019 in accordance with the directions given by the Honble Division Bench Judgement

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259 of 2016 etc., dated 10.03.2016.

For Petitioner(s): Mr.K.S.Viswanathan,
Senior Counsel
for Mrs.T.Hemalatha

For Respondent(s): Mr.K.K.Ram Siddharatha,
Additional Government Pleader (for R1 to R3)
Mr.P.Manorajan,
Standing Counsel (For R4)

ORDER

The present Writ Petition has been filed seeking issuance of a Writ of Mandamus, directing the respondents to count 50% of the past service rendered by the petitioner as a Part-Time Panchayat Clerk from 15.03.1984 to 31.01.1991 for the purpose of calculating pension, along with the part-time service rendered by the petitioner between 01.01.1991 and 28.12.2000 and his regular service rendered between 22.12.2000 and 31.01.2019, in accordance with the directions issued by the Division Bench of this Court in W.A.No.259 of 2016, dated 10.03.2016.

2. The brief facts which are necessary for the disposal of the present Writ Petition are that the petitioner was appointed as a Part-Time Panchayat Clerk on 15.03.1984 and continued in the said position until 31.12.1990. With effect from 01.01.1991, the post was redesignated as Panchayat Assistant. Subsequently, he was appointed as a Junior Assistant in the Veppanapalli

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Panchayat Union with effect from 22.12.2000, and eventually retired from service on 31.01.2019 as a Deputy Block Development Officer. It is the submission of the petitioner that, though the pension authorities have counted 50% of his past service rendered from 01.01.1991 to 28.12.2000, his service as a Part-Time Panchayat Clerk from 15.03.1984 to 31.12.1990 has not been taken into account for the purpose of calculating pension.

2.1. The petitioner claims that G.O.Ms.No.39, Rural Development and Panchayat Raj (E5) Department, dated 13.06.2011, extended the benefit of counting 50% of the past Panchayat service for pensionary purposes. Though the subsequent G.O.Ms.No.77, Rural Development and Panchayat Raj (PA4) Department, dated 12.07.2013, withdrew the said benefit, in view of the various Division Bench judgement of this Court, the petitioner claims that 50% of his past part-time service is liable to be counted for the purpose of calculating pension. Hence, the present Writ Petition.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. The learned Senior Counsel appearing for the petitioner would submit that, as per G.O.Ms.No.39, Rural Development and Panchayat Raj (E5) Department, dated 13.06.2011, 50% of the part-time service was permitted to be

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counted for the purpose of calculating pension and that the said Government Order was issued with the concurrence of the Finance Department. Though the Tamil Nadu Pension Rules (hereinafter referred to as "the Pension Rules") stipulate that the benefit of counting past service is applicable only to regular employees, since G.O.Ms.No.39, Rural Development and Panchayat Raj (E5) Department, dated 13.06.2011, issued with the concurrence of the Finance Department, the learned Senior Counsel would contend that the same should be construed as a relaxation granted by the Department under Rule 82 of the Pension Rules, taking into consideration of the peculiar circumstances of the employees concerned.

4.1. The learned Senior Counsel would further submit that, though G.O.Ms.No.77, Rural Development and Panchayat Raj (PA4) Department, dated 12.07.2013, was subsequently issued withdrawing the said benefit, the Government Order protected the rights that had already accrued upon persons who had benefited under G.O.Ms.No.39, dated 13.06.2011. Therefore, the petitioner, having acquired a vested right under G.O.Ms.No.39, cannot be deprived of the said benefit by a subsequent Government Order. This position, according to the learned Senior Counsel, has been considered in various judgments of the Division Benches of this Court, more particularly, in ***The Government of Tamil Nadu v. A. Duraisamy*** (W.A.No.3784 of 2024, dated 06.01.2025), which was subsequently followed by another Division Bench in

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W.A.No.2660 of 2025, dated 10.09.2025. Hence, the learned Senior Counsel would contend that the petitioner's past part-time service is liable to be counted for the purpose of calculating pension and, accordingly, seeks issuance of a Writ of Mandamus.

5. Per contra, the said contention was stoutly opposed by the learned Additional Government Pleader appearing for the first to third respondents and would submit that there is no dispute with regard to the petitioner's date of appointment as a Part-Time Panchayat Clerk, his subsequent redesignation as a Panchayat Assistant, and his appointment as a Junior Assistant with effect from 22.12.2000. However, the learned Additional Government Pleader would specifically contend that, under Rule 11(4) of the Pension Rules, past service can be counted only in respect of eligible regular employees and that the said position has already been settled by the Full Bench of this Court in ***Government of Tamil Nadu v. R. Kaliyamoorthy***, reported in ***(2019) 6 CTC 705.*** Therefore, notwithstanding the judgments of the Division Benches relied upon by the petitioner, the issue having already been clarified by the Full Bench of this Court, the petitioner's request for counting his part-time service is not maintainable. In this regard, he would also rely upon the latest decision of the Division Bench of this Court in ***State of Tamil Nadu v. A. Chidambaram,*** reported in ***2026:MHC:2486.*** Hence, he prayed to dismiss of the present Writ Petition.

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6. I have given my anxious consideration to the submissions made by the learned counsel appearing on either side.

7. It is not in dispute that, by G.O.Ms.No.39, dated 13.06.2011, the Government directed that 50% of the past service be counted for pensionary purposes, irrespective of whether such service was rendered on a full-time or part-time basis. It is equally an admitted fact that, by G.O.Ms.No.77, dated 12.07.2013, the aforesaid benefit was withdrawn in respect of part-time employees. However, the learned Senior Counsel would contend that G.O.Ms.No.39 was issued with the concurrence of the Finance Department and that, in view of the specific provisions of the Pension Rules permitting the counting of 50% of past non-provincialised full-time service for pensionary purposes, the relaxation granted under G.O.Ms.No.39 should be construed as a conscious decision of the Government in exercise of its powers under Rule 82 of the Pension Rules. For ready reference, the relevant provision is extracted hereunder:-

> *"**82. Power to relax:** Where any Department of the Government is satisfied that the operation of any of these rules causes undue hardship in any particular case, the Department, may by order for reasons to be recorded in writing, dispense with or relax the requirements of that rule to such extent and subject to such*

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exception and conditions as it may consider necessary for dealing with the case in a just and equitable manner:

Provided that no such order shall be made except with the concurrence of the Finance Department."

8. On a perusal of the aforesaid Rule, it is evident that G.O.Ms.No.39 was issued with the concurrence of the Finance Department. Therefore, it may be construed, to that extent, as a concession extended to the employees concerned. However, by the subsequent G.O.Ms.No.77, dated 12.07.2013, the very same Department withdrew the said concession. Therefore, insofar as the contention of the learned Senior Counsel that G.O.Ms.No.39 should be construed as a relaxation granted under Rule 82 of the Pension Rules is concerned, this Court is of the firm view that such relaxation was subsequently withdrawn by G.O.Ms.No.77. Hence, the contention based on Rule 82 of the Pension Rules cannot be accepted in the facts and circumstances of the present case.

9. Coming to the judgments of the Division Benches of this Court, as rightly contended by the learned Senior Counsel, the Division Bench in ***A.Duraisamy's case*** (cited supra) has categorically considered the issue relating to the counting of 50% of past part-time service for calculating pension, with reference to G.O.Ms.No.39 and the subsequent G.O.Ms.No.77. The Division Bench ultimately held that the benefit extended under G.O.Ms.No.39 could not

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be withdrawn in respect of those employees who had already acquired such a right, particularly when G.O.Ms.No.77, dated 12.07.2013, itself preserved the benefits already accrued to the eligible employees.

10. However, in a subsequent decision, the Division Bench of this Court in ***A.Chidambaram's case*** (cited supra) distinguished the various judgments rendered by the earlier Division Benches of this Court, having regard to the relevant provisions of the Pension Rules, particularly Rule 11, and the decision of the Full Bench of this Court in ***R. Kaliyamoorthy's case*** (cited supra). The Division Bench held that the Full Bench had categorically clarified the legal position and declared that the benefit of counting 50% of past service towards pension was available only to employees who had rendered full-time service and not to those who had rendered part-time service. In view of the said Full Bench decision and the relevant provisions of the Pension Rules, the earlier judgments of the Division Benches could not be treated as binding precedents to the contrary.

11. At this juncture, the learned Senior Counsel, relying upon the judgment of the Hon'ble Supreme Court in ***National Insurance Co. Ltd. v. Pranay Sethi*****,** reported in ***(2017) 16 SCC 680,*** would contend that, when an earlier judgment co-equal bench has dealt with the same set of rules, a subsequent co-equal Bench, if it intends to take a different view, must refer the

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matter to a Larger Bench instead of taking a contrary view on its own. Any such deviation from the aforesaid principle would amount to judicial impropriety. This Court is in complete agreement with the submissions made by the learned Senior Counsel. But the above argument has no application in the instant case, as the previous bench was not informed about the binding decision of the Full Bench.

12. In the case in hand, while considering the subsequent decision of the Division Bench in ***A.Chidambaram's case*** (cited supra), it is relevant to note that the said Division Bench relied upon the decision of the Full Bench of this Court in ***R.Kaliyamoorthy's case,*** which had not been brought to the notice of the earlier Division Benches. In ***R.Kaliyamoorthy's case*** (cited supra), the Full Bench categorically held that the benefit of counting 50% of past service towards pension was extended only to employees who had rendered full-time service and not to those who had rendered part-time service. As already stated, the said Full Bench decision had not been brought to the notice of the earlier Division Benches while they were considering the issue.

13. It is in the aforesaid circumstances that the earlier Division Benches had taken a different view. However, since the subsequent Division Bench in ***A.Chidambaram's case*** followed the decision of the Full Bench and considered the issue in accordance with the relevant provisions of the Pension Rules, this

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Court is of the firm view that, sitting as a Single Judge, I am bound by the decision of the Division Bench rendered on the basis of the Full Bench decision in ***R. Kaliyamoorthy's case*** (cited supra).

14. In view of the foregoing discussion, this Court is of the firm view that the petitioner's claim for counting 50% of his past part-time service for the purpose of calculating pension cannot be granted, in view of Rule 11 of the Pension Rules and the decision of the Full Bench of this Court in ***R.Kaliyamoorthy's case*** (cited supra). Accordingly, the present Writ Petition is liable to be dismissed.

15. In the result, this Writ Petition is dismissed. No costs.

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Index: Yes
Speaking order
Neutral Citation: Yes

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To

1. The Government of Tamil Nadu
Rep by its Principal Secretary to Government Rural
Development and panchayat Raj Department,
Fort St. George, Chennai- 09.

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and Panchayat Raj
Panagal Building,
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No.361, Anna Salai,
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C.KUMARAPPAN J.

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