

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-07-2026

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.A.Nos.1691, 2000, 2060, 2081, 2211, 2212 & 2247 of 2026
AND
C.M.P.Nos.15499, 17421, 17832, 18067, 19139,
19144 & 19533 of 2026,

1.The State of Tamil Nadu
Rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai - 600 009.

2.The Director of Government Examinations
Directorate of Government Examinations,
College Road, Chennai - 600 006.

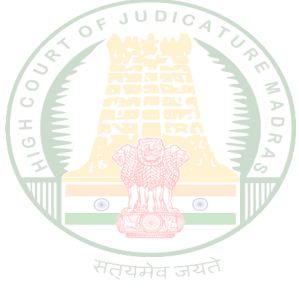
3.The Assistant Director of Government
Examinations, Coimbatore,
Coimbatore District.

... Appellants in all

-VS-

1. R.Padmavathy	...Respondent in W.A.No.1691/2026
2. G.Sulochana	...Respondent in W.A.No.2000/2026
3. N.Nagarathinam	...Respondent in W.A.No.2060/2026
4. A.Banumathi	...Respondent in W.A.No.2081/2026
5. R.Tamilselvi	...Respondent in W.A.No.2211/2026
6. K.Namagiri	...Respondent in W.A.No.2211/2026
7. V.Rajalakshmi	...Respondent in W.A.No.2247/2026

Common Prayer: To set aside the orders dated 27.10.2021 made in W.P.Nos.22947, 22944, 22959, 22953, 22954, 22951 and 22956 of 2021 and allow appeals.



For Appellants:

Dr.R.Gouri,
Govt. Counsel (in all)

For Respondents:

Mr.A.R.Suresh,
For Mr.K.Arumugam (in all)

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COMMON JUDGMENT***(Judgment of the Court was delivered by S.M.Subramaniam J.)***

State of Tamil Nadu preferred present Writ Appeals under Clause-15 of Letters Patent, challenging the orders passed by Writ Court.

2. Relief sought for by the respondents / Writ Petitioners are grant of retrospective regularisation from the date of their temporary appointment as Daily Wagers or regularize their services retrospectively from the date of completion of 10 years of service as Daily Wagers.

3. It is not in dispute that respondents were engaged temporary Daily Wage Section Writers and subsequently, Government framed a Scheme and regularised their services in the sanctioned post of Record Clerk under Pensionable Establishment with effect from 20.10.2006. Not satisfied with the regularisation and in order to claim the benefit of Old Pension Scheme, these regularised employees filed Writ



Petitions. Writ Court allowed Writ Petitions, relying on a judgment of Division Bench of this Court¹, which was implemented by Government in some cases.

4. Learned counsel for the respondents would forcibly contend that when Court Orders were implemented by Government, granting retrospective regularisation from the date of engagement as temporary Daily Wagers, case of respondents need not be considered in a different way. Some of the Juniors to the respondents herein had also secured the benefit retrospective regularisation and thus, it is to be extended to respondents also. Pertinently, the relief sought for in Writ Petitions is to extend the benefit of judgment of Division Bench passed in Writ Appeal.

5. State would contend that temporary Daily Wage Section Writers are not entitled for regularisation, since they were not initially recruited to the post of Record Clerk in accordance with Service Rules. By way of concession, the benefit of regularisation was extended to these Daily Wage employees with effect from 20.10.2006, by accommodating them in the sanctioned post of Record Clerk. The earlier judgments were implemented under the threat of contempt of Courts and

¹ W.A.No.602 of 2011 dated 22.09.2011



in several cases, before disposal of Writ Appeals, Contempt Petitions were filed and under threat of Contempt proceedings before learned Single Judge, Government implemented orders, making Writ Appeals earlier filed by State ineffective.

6. Regarding retrospective regularisation of services, legal principles were settled in catena of judgments. Irregular and illegal appointments cannot be regularised. Regularisation / permanent absorptions are to be considered strictly in accordance with Service Rules applicable. However, Government, considering long temporary Daily Wage employment, framed Scheme for absorption of these employees in a phased manner in sanctioned posts and accordingly, the benefit of regularisation was granted in the sanctioned post of Record Clerk with effect from 20.10.2006. Regularisation itself is a concession extended to employees and therefore, they are not entitled to claim retrospective regularisation with an idea to secure retirement / pensionary benefits under Old Pension Scheme. New Pension Scheme was implemented with effect from 01.04.2003 and respondents herein are covered under New Pension Scheme, namely, Contributory Pension Scheme.

7. The issue to be considered is whether High Court can follow the earlier order of Division Bench of this Court, as implemented



by Government under threat of Contempt Proceedings or to consider the legal principles and Rules position as well as orders passed by Full Bench of this Court.

8. Regarding regularisation of Daily Wage Employees, Government had already granted the benefit of regularisation with effect from 20.10.2006. Respondents, accepting the date of regularisation, served in the Department and retired from service. Therefore, respondents, having accepted the date of regularisation long before, cannot now turn around and challenge or claim retrospective regularisation after attaining the age of superannuation or citing the earlier order of High Court, which was implemented under threat of contempt proceedings. Admittedly, Writ Petitions were filed belatedly and after accepting the date of regularisation by respondents.

9. In respect of claim of respondents for counting of 50% of of Daily Wager services, Rule 11(4) of Tamil Nadu Pension Rules, 1978 (Old Pension Rules) stipulates a condition that “Service rendered in non-provincialised service, consolidated pay, honorarium or daily wage basis shall be in a job involving whole time employment”.

10. In this regard, Full Bench of Madras High Court in the case of ***State of Tamilnadu represented by Secretary to Government,***



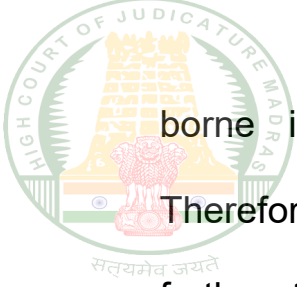
Public Works Department, Secretariat, Chennai-600 009 and others vs.

R.Kaliyamoorthy² held that *“In case, a government employee/servant had also rendered service in non- provincialised service, or on consolidated pay or on honourarium or daily wages basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.”* As per the above Full Bench judgment, regularisation and permanent absorption of temporary employees, if granted after cut off date of 01.04.2003, then they are not entitled to count 50% of services and those regularised employees after cut off date would be eligible to claim New Pension Scheme, i.e., Contributory Pension Scheme.

11. In this context, it is relevant to rely on the proviso to Rule 2 of Tamil Nadu Pension Rules, 1978, which stipulates that *“Provided that these rules shall not apply to Government servants appointed on or after the 1st April 2003, to services and posts in connection with the affairs of the State which are borne on pensionable establishment, whether temporary or permanent.”*

12. In the present case, all respondents were absorbed in the Pensionable Establishment with effect from 20.10.2006 and they were

²(2019) 6 CTC 705



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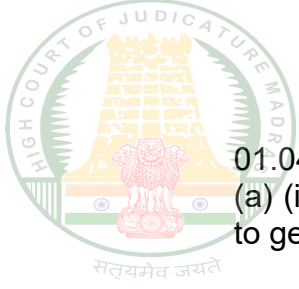
borne in the regular services of Government after 01.04.2003.

Therefore, they are not entitled to claim counting of 50% of services and further, they are eligible to receive benefits under Contributory Pension Scheme. When the Tamil Nadu Pension Rules, 1978 (Old Pension Scheme) is inapplicable to employees appointed / permanently absorbed after cut off date of 01.04.2003, respondents cannot claim retrospective regularisation of their services from the date on which they were temporarily engaged as Daily Wage Employees.

13. Grant of permanent absorption / regularisation in the case of respondents by itself is a concession extended by Government. Therefore, they are not entitled to claim any further benefit of retrospective regularisation.

14. Regarding previous judgment of Division Bench relied upon by respondents, implemented by Government under threat of contempt proceedings, this Court is of the considered view that Full Bench judgment of this Court in the case of **R.Kaliyamoorthy (cited supra)** has not been followed in the said judgment. Concluding paragraphs of Full Bench judgment read as under:

- i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of W.A.No.158 of 2016 etc., batch proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003;



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(ii) Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10 (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 01.04.2003, 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 01.04.2003 and absorbed into regular service after 01.04.2003 will not be entitled to count half of W.A.No.158 of 2016 etc., batch 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 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension."

15. In the past, individual and independent Court orders were passed in few cases and grounds of relief were based on more on misplaced sympathy than the foothold of Rules / Law in place. Consequently, such individual orders have been followed as precedent in the consequential similarly placed cases, creating spinning wheel of precedents to choose from thereby causing inconsistency and diluting actual Rule / Law.

16. In the present case, relief sought for by respondents is to extend the benefit of earlier Court orders, implemented by Government by referring to contempt proceedings. Therefore, it is not desirable to

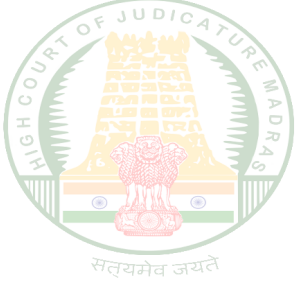


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follow the said Division Bench judgment, running counter to the ratio laid down by Full Bench in the case of ***R.Kaliyamoorthy (cited supra)***. In the event of following the earlier judgment of Division Bench, it will not only be violative of Full Bench judgment, but also would constitute a wrong precedent. This will result in opening a Pandora Box, where several such daily wage employees regularised / permanently absorbed into service after 01.04.2003 will also claim the benefit of retrospective regularisation with an idea to secure the benefit of Old Pension Scheme, which is otherwise impermissible. Thus, daily wage / consolidated pay / contract / temporary employees regularised / permanent absorbed into Government service after the cut off date of 01.04.2003 are not eligible to avail the benefit under Tamil Nadu Pension Rules, 1978 (Old Pension Scheme) and they are eligible to get the benefit under Contributory Pension Scheme. Their claim for retrospective regularisation is running counter to legal principles settled by Constitution Bench judgment of Hon'ble Supreme Court of India in the case of **State of Karnataka vs. Umadevi**³ and Full Bench judgment of this Court in the case of ***R.Kaliyamoorthy (cited supra)***.

S.M.SUBRAMANIAM,J.
AND

³ (2006) 4 SCC 1



N.SENTHILKUMAR,J.
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In view of the above findings, the present Writ Appeals are allowed. The impugned orders passed in W.P.Nos.22947, 22944, 22959, 22953, 22954, 22951 and 22956 of 2021 are set aside. No costs. Consequently, connected Miscellaneous Petitions are closed.

(S.M.S.,J.) (N.S.,J.)
22-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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