

WEB COPY

W.P.No.4321 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.4321 of 2025

N.Balasubramanian
S/o.K.R.Narayanasamy

... Petitioner

VS.

1. The Registrar General
High Court, Madras.
2. The Principal District Judge
Ariyalur.
3. The Secretary to Government of Tamil Nadu
Home Department (Courts)
Fort St.George
Chennai-600 009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the order passed vide proceedings in A. No 124/2020 dated 21.12.2020 on the file of the Second respondent and quash the same by directing the respondents herein to take into account the past services rendered by the petitioner with effect from 23.06.1988 for computing pension



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period in the then existed pension scheme prior to regularization as a full time servant on 01.07.2009 for determining the pension amount payable to the petitioner after adjusting CPS contribution settled at the time of superannuation on 30.04.2020 and to pay the differential arrears amount with interest at the rate of 12% per annum amount forthwith to the petitioner along with all other attendants consequential service terminal benefits besides directing the Respondents to pay the revised pension to the petitioner periodically.

For Petitioner : Mr.R.Natarajan
 For Respondents : Mr.E.V.Chandru @ E.Chandrasekaran
 for R1 and R2
 Dr.R.Gowri
 Government Counsel, for R3

ORDER

[Made by **S.M.SUBRAMANIAM, J.,**]

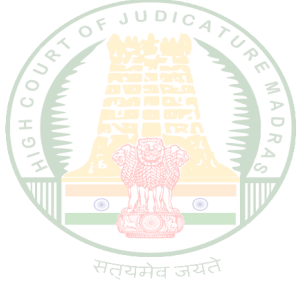
The writ petition has been instituted claiming counting of the part-time service rendered by the petitioner in the post of Masalchi as qualifying service for the grant of pension and pensionary benefits under the Tamil Nadu Pension Rules, 1978 [hereinafter "Rules 1978" for the sake of brevity].



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2. The uncontroverted facts between the parties are that the writ petitioner Balasubramanian, was appointed as a part-time Masalchi on 16.04.1981 as per proceedings of the Principal District Judge, Tiruchirapalli. He served as a part-time Masalchi till 30.06.2009. Based on the proposal of the High Court, the Government issued an order sanctioning a regular post of Full-time Masalchi in pre-revised scale of pay of Rs.2550-55-2660-60-3200. The Government issued orders in G.O.Ms.No.68 Home (Cts.V) Department, dated 28.01.2009. Consequently, the Principal District Judge, Perambalur, appointed the writ petitioner as a Full-time Masalchi vide proceedings dated 30.06.2009 and posted him at the Sub-Court, Ariyalur. The petitioner joined duty as a Full-time Masalchi on 01.07.2009. Since the petitioner was regularly appointed as a Full-time Masalchi with effect from 01.07.2009, he was brought under the New Contributory Pension Scheme and a CPS account was opened.

3. The writ petitioner has made a claim stating that his service as a Part-time Masalchi from 16.04.1981 to 30.06.2009 is to be reckoned as qualifying service under Rule 11 of the Rules 1978, for the purpose of pension and pensionary benefits under the Old Pension Scheme.



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4. The only issue to be considered is whether the service of the petitioner in the post of Part-time Masalchi is to be counted for the purpose of reckoning qualifying service under the Rules 1978 or not.

5. Admittedly, the petitioner was appointed to the sanctioned post of Full-time Masalchi and joined duty on 01.07.2009. Since the New Pension Scheme came into force with effect from 01.04.2003, the petitioner was brought under the new scheme i.e., Contributory Pension Scheme.

6. Rule 11(2)(i) of the Rules 1978, stipulates that **“service paid from contingencies shall be in a job involving whole time employment and not part time for a portion of the day”**.

7. As a subsequent amendment was made to Rule 11, after Sub-Rule(3) and as per amended Sub-Rule (4) to Rule 11, “Half of the service rendered under the State Government in non-provincialised service, consolidated pay, honorarium or daily wages basis on or after 1st January 1961 in respect of Government employees absorbed in regular service before 1st April shall be counted for retirement benefits along with regular



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service, subject to the condition that service rendered in non-provincilased service, consolidated pay, honorarium or daily wages basis shall be in a job involving whole time employment”.

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8. Therefore, Rule 11(2)(i) and Rule 11(4) in unequivocal terms, reiterate that the benefit of counting 50% of service can be granted only when the employee was engaged in whole time employment and not part time employment.

9. In the present case, admittedly, the writ petitioner was engaged in part time employment till 30.06.2009 and he was appointed as a Full-time Masalchi and joined duty on 01.07.2009.

10. The next question arises is whether the writ petition filed by the petitioner seeking the benefit under Rules 1978 (Old Pension Scheme) is entertainable.

11. In view of the implementation of the New Pension Scheme i.e., Contributory Pension Scheme, the Rules 1978 was amended. Proviso to Rule 1(2) of Rules 1978 states that “these rules (Tamil Nadu Pension



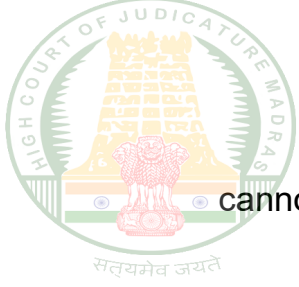
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Rules, 1978) shall not apply to Government Servants appointed on or after the 1st April 2003, to services and posts in connection with the affairs of the State which are borne on pensionable establishments, whether temporary or permanent.”

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12. Therefore, the Rules 1978 will not apply to employees who were appointed against sanctioned posts in the Government on or after 01.04.2003. In the present case, the petitioner was admittedly appointed to the regular post of Full-time Masalchi and joined duty on 01.07.2009. Therefore, the Rules 1978 will not apply to the petitioner. Therefore, the claim made by him for counting 50% of his service under the Rules 1978 is untenable.

13. In the present case, the High Court submitted a proposal for constitution of the post of Full-time Masalchi and the Government, considering the proposal, constituted the post of Full-time Masalchi vide G.O.Ms.No.68 dated 28.01.2009. Thereafter, the petitioner was appointed as a Full-time Masalchi in the sanctioned post in the regular time scale of pay and joined the duty on 01.07.2009. Therefore, Rules 1978 (Old Pension Scheme) are not applicable to the petitioner. Therefore, he



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cannot claim any benefit under any of the provisions of the Rules 1978.

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14. In view of the above discussion, this Court has no hesitation in arriving at a conclusion that the petitioner has not established even a semblance of legal right for considering his claim and consequently, the Writ Petition stands dismissed. There shall be no order as to costs.

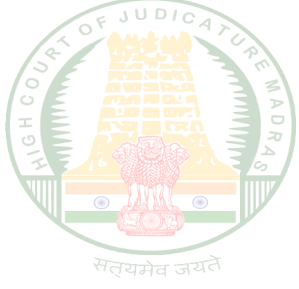
(S.M.S.,J.) (N.S.,J.)
10.06.2026

Index : Yes
Neutral Citation : Yes
Speaking order

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To

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**S. M. SUBRAMANIAM, J.,
and
N.SENTHILKUMAR, J.,**

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