

IN THE HIGH COURT OF JUDICATURE AT MADRAS

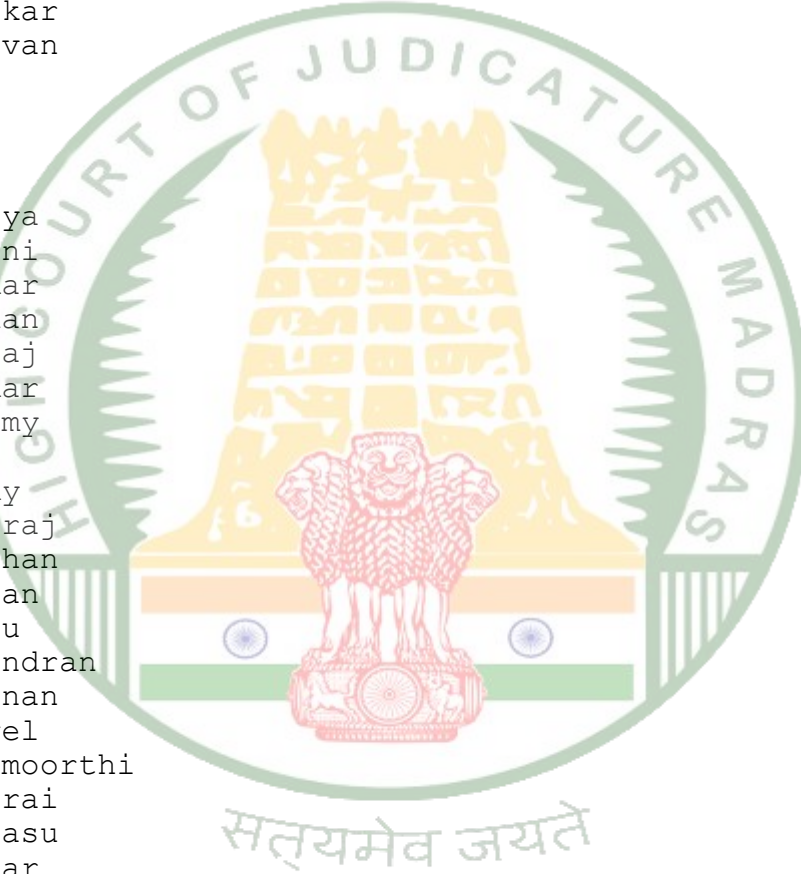
DATED: 19.12.2019

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.6804 OF 2016

1. G.Nagarajan
2. V.Mani
3. T.Dhanasekar
4. P.Kathiravan
5. N.Ganesan
6. S.Gopi
7. C.Jawahar
8. M.Kannan
9. V.Chinnaiya
- 10.S.Kalaimani
- 11.M.Sivakumar
- 12.S.P.Ashokan
- 13.R.Mohanaraj
- 14.P.Ravikumar
- 15.K.Muthusamy
- 16.M.Ganesan
- 17.P.Ramasamy
- 18.M.S.Selvaraj
- 19.R.Loganathan
- 20.P.Manokaran
- 21.V.Nagarasu
- 22.R.Balachandran
- 23.P.Periyannan
- 24.R.Palanivel
- 25.R.Krishnamoorthi
- 26.N.Selladurai
- 27.S.Kanagarasu
- 28.A.Balakumar
- 29.M.Periyathambi
- 30.P.Krishnan
- 31.R.Selladhurai
- 32.R.Selvarasu
- 33.R.Srinivasan
- 34.R.Rathinasikamani
- 35.M.Nedunjeliyan
- 36.A.Murugesan
- 37.V.Perumal
- 38.A.Neelamegam
- 39.A.Kanagaraj
- 40.R.Dhuraishamy



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41.S.Rajendiran
42.K.Selvam
43.M.Selvaraj
44.R.Selvakumar
45.C.Nadesan
46.N.Kumar
47.P.Ravi
48.P.Kumanan
49.P.Marudhai
50.A.Mariyauthriyam
51.Subramaniyan
52.M.Rajendran
53.S.Pomman
54.K.Thirukumaran

..Petitioners

..Vs..

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Energy Department,
Fort St.George, Chennai-9.
2. The Tamil Nadu Generation and
Distribution Corporation Limited (TANGEDCO),
Represented by its Chairman cum Managing Director,
NPKRR Maligai, 144, Anna Salai,
Chennai-600 002.
3. The Chief Engineer (Personal),
The Tamil Nadu Generation and
Distribution Corporation Limited (TANGEDCO),
NPKRR Maligai, 144, Anna Salai,
Chennai-600 002.

..Respondents

PRAYER:

Writ Petition is filed under Article 226 of the Constitution of India seeking for a Writ of Mandamus directing the Respondents herein to bring the petitioners under the old pension scheme and allow them to contribute towards the GPF instead of the new CPS scheme in view of their services rendered as daily rated employees/contract labourers from the year 1988 but only regularized in 2007 and consequently extend the benefits issued by the Government in G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009 and the 2nd Respondent Corporation as per FB TANGEDCO proceedings No.31 dated 08.09.2011 by counting 50% of their service rendered as contract labourers for pensionary benefits along with regular service.

For petitioners : Mr.G.Arul Murugan

For Respondents : Mr.J.Ramesh (R1)
Additional Government Pleader
Mr.Anand Gopalan
for M/s.Gopalan & Co (R2 and R3)

O R D E R

This Writ Petition has been filed seeking for a direction to the Respondents herein to bring the petitioners under the old pension scheme and allow them to contribute towards the GPF instead of the new CPS scheme in view of their services rendered as daily rated employees/contract labourers from the year 1988 but only regularized in 2007 and consequently extend the benefits issued by the Government in G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009 and the 2nd Respondent Corporation as per FB TANGEDCO proceedings No.31 dated 08.09.2011 by counting 50% of their service rendered as contract labourers for pensionary benefits along with regular service.

2. According to the Writ Petitioners they were appointed as NMR's in the year 1985 and their services were regularised on 13.08.2007. It is further stated that the petitioners have now got promotions and are working as Field Assistants/Wiremans/Assessors in different offices of the Respondent Corporation. The grievance of the petitioners is that they made an individual representation to the respondents on 28.10.2015 requesting them to bring the petitioners in the old pension scheme by allowing them to contribute towards GPF instead of new CPS scheme and extend the benefits granted in G.O.Ms.No.408 dated 25.08.2009 and FB TANGEDCO Proceedings in Proceedings No.31 dated 08.09.2011. As the same did not evoke any response the petitioners have come forward with this Writ Petition seeking for the aforesaid relief.

3. Heard the learned counsel for the petitioners, the learned Additional Government Pleader appearing for the first respondent as well as the learned counsel appearing for the respondents 2 and 3.

4. The Hon'ble Full Bench of this Court in the case of The Government of Tamil Nadu Vs. R.Kaliyamoorthy reported in 2019 5 LW 673 in paragraph 45 of the said Judgment, has held as follows:

"i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by

G.O.Ms.No.259 dated 06.08.2003

(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 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."

5. As per the aforesaid Judgment, the Writ Petitioners will come under the category of Clause (V).

6. Therefore, the Writ petitioners are not entitled to the relief for counting half of the past services for determining the qualifying service for pension.

7. Considering the facts and circumstances of the case and also in the light of the aforesaid Full Bench Judgment of this Court, this Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

1. The Secretary to Government,
The State of Tamil Nadu,
Energy Department,
Fort St. George, Chennai-9.
2. The Chairman cum Managing Director,
The Tamil Nadu Generation and
Distribution Corporation Limited (TANGEDCO),
NPKRR Maligai, 144, Anna Salai,
Chennai-600 002.
3. The Chief Engineer (Personal),
The Tamil Nadu Generation and
Distribution Corporation Limited (TANGEDCO),
NPKRR Maligai, 144, Anna Salai,
Chennai-600 002.

+1cc to Mr.G.Arul Murugan, Advocate, S.R.No.106373
+1cc to M/s.Gopalan & Co, Advocate, S.R.No.105960

सत्यमेव जयते

W.P.No.6804 of 2016

PVS (CO)
CS/06/02/2020

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