

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 02.08.2019****CORAM:****THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM****W.P. (MD) No.3189 of 2015**

WEB COPY

G.Jayakar Sam

... Petitioner

vs.

1.The Secretary to Government

Municipal Administration and Water Supply Department

Fort St.George, Chennai-600 009

2.The Commissioner

Commissioner of Municipal Administration

Ezhilagam, Chennai-600 005

3.The Commissioner

Municipal Corporation of Thiruchirapalli

Thiruchirappalli

4.The Assistant Commissioner

Ponmalai Division

Municipal Corporation of Thiruchirapalli

Thiruchirappalli

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the Respondents to compute the entire period of service from 01.05.1988 to 29.06.2007 rendered by the petitioner on temporary basis prior to his provincialisation of his service on 29.06.2007 A.N for the purpose of counting as qualified service for the computation of pension and future retirement benefits.

For Petitioner : Ms.M.P.Kaviya

for Mr.S.Arunachalam Associates

For Respondents : Mr.D.Muruganandham

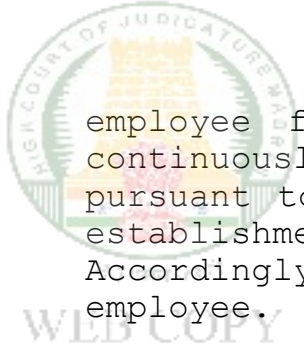
Additional Government Pleader for R1 & R2

Mr.N.S.Karthikeyan for R3 & R4

O R D E R

The relief sought for in the present writ petition is for a direction to the respondents to compute the entire period of services from 01.05.1988 to 29.06.2007 rendered by the writ petitioner on temporary basis prior to his permanent absorption with effect from 29.06.2007.

<https://hcservices.ecourts.gov.in/hcservices/> 2. Ms. M.P.Kaviya, learned counsel representing Mr.S.Arunachalam, learned counsel on record for the writ petitioner made a submission that the writ petitioner was joined as daily wage



employee from the year 1988 onwards. The writ petitioner was continuously working as daily wage employee and subsequently, pursuant to the Government Order, he was brought under the regular establishment in the time scale of pay with effect from 29.06.2007. Accordingly, the writ petitioner is continuing as permanent employee.

3. The learned counsel for the writ petitioner made a further submission that the period of services rendered by the writ petitioner as daily wage employee were not taken into consideration for the purpose of calculating the qualifying period of service for grant of pensionary benefits. Thus, the writ petitioner is constrained to file the present writ petition.

4. The learned counsel for the writ petitioner is of the opinion that as per the Government Order in G.O.No.408, Finance (Pension) Department, dated 25.08.2009, 50% of the temporary period of services is to be reckoned for the purpose of calculating the qualifying period of services. However, the said benefit has not been extended to the writ petitioner.

5. The learned counsel appearing for the respondents 3 and 4 made a submission that undoubtedly, the writ petitioner was appointed by the erstwhile Town Panchayat and it was subsequently merged with the Municipality and thereafter, the writ petitioner became the employee of the Municipality and he was absorbed and accordingly, brought under the regular establishment of the Municipality. Now, he is working in the regular time scale of pay. With reference to G.O.No.408, Finance (Pension) Department, dated 25.08.2009, in the said Government Order, the Government has prescribed certain terms and conditions. Thus, the respondents have to consider the case of the writ petitioner strictly in accordance with the rules in force.

6. This Court is of the considered opinion that pursuant to the issuance of G.O.No.408, Finance (Pension) Department, dated 25.08.2009, the Rule 11(iv) of the Tamil Nadu Pension Rules, 1978 (hereinafter, referred to as "the Rules") was amended by the Government. Accordingly, 50% of the temporary period of services can be counted for the purpose of reckoning the qualifying period of services. This being the amended Rule, the case of the writ petitioner is to be considered in accordance with the amended Rule 11(iv) of the Rules, if he is qualified and satisfying the terms and conditions stipulated in the amended Rule. In other words, if the writ petitioner is otherwise eligible with reference to the terms and conditions stipulated in Rule 11(iv) of the Rules, his case is to be considered for the purpose of counting 50% of the temporary period of services as qualifying period of service for grant of pensionary benefits. In this regard, the writ petitioner is permitted to submit his service particulars and documents, if any, in support of such claim to the respondents within a period of four weeks from the date of receipt of a copy of this order and in the



event of receiving such application, the respondents are directed to consider the same and take a decision and pass orders on merits and in accordance with law, within a period of eight weeks thereafter.

7. With these observations, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai-600 009.

2.The Commissioner,
Commissioner of Municipal Administration,
Ezhilagam, Chennai-600 005.

3.The Commissioner
Municipal Corporation of Thiruchirapalli
Thiruchirappalli

4.The Assistant Commissioner
Ponmalai Division
Municipal Corporation of Thiruchirapalli
Thiruchirappalli

+1 CC to Mr.S.ARUNACHALAM ASSOCIATES, Advocate (SR-79646[F] dated 05/08/2019)

W.P. (MD) No.3189 of 2015

02.08.2019

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