

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2020

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.19471 of 2015

1. Mr.R.Radha
2. Mr.D.Natarajan
3. Mr.K.Raja
4. Mr.R.Maadhu
5. Mr.S.Paramasivam
6. Mr.I.Jayakumar
7. Mr.C.Iyandhurai
8. Mr.N.Stalin
9. Mr.K.Karunakaran
10. Ms.C.Poongodi

... Petitioners

Vs.

1. The Secretary to Government,
Municipal Administration & Water supply Department,
Fort St. George, Chennai - 600 001.
2. The Commissioner,
Salem Corporation,
Salem.
3. The Director of Local Fund Audit,
Kuralagam, Chennai - 600 108.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to allot GPF Account Number for grant of pension to the petitioners under the Tamil Nadu Pension Rules 1978 (old pension scheme) by counting 50% of the services rendered by them prior to their respective date of regularisation.

For Petitioners : Mr.R.Prem Narayanan

For Respondents : Mr.S.Thangavel
Spl. Government Pleader- R1 & R3

Ms.K.Bhuvaneswari - R2

O R D E R

This Writ Petition has been filed to direct the respondents to allot GPF Account Number for grant of pension to the petitioners under the Tamil Nadu Pension Rules 1978 (old pension scheme) by counting 50% of the services rendered by them prior to their respective date of regularisation.

2. The writ petitioners have been appointed as NMRS on daily wages in the respondent Corporation and subsequently their services have been regularized on 23.02.2006. The writ petitioners made a representation to count the period of the services rendered by the writ petitioners prior to the respective date of regularization under Rule 11 (4) of the Tamilnadu Pension Rules for taking into account 50% of their services for determination of qualifying service. Since no Orders have been passed on the aforesaid claim, the present writ petition has been filed.

3. The learned Special Government Pleader submitted that as per Rule 11 (4) of Tamil Nadu Pension Rules, a Government employee, who is absorbed in regular service before 01.04.2003 is entitled to include half of his service for determination of qualifying service for pension. As the petitioners have been regularised on 23.02.2006, they are not entitled to include half of their service for the purpose of pension benefits.

4. Heard the learned counsel for the petitioner sand the learned Special Government Pleader for the respondents and perused the materials on record.

5. The writ petitioners have been appointed as NMRS on daily wages in the respondent Corporation and subsequently their services have been regularized on 23.02.2006. The present writ petition has been filed by the petitioners to count the period of the services rendered by the writ petitioners prior to the respective date of their regularization for pensionary benefits.

6. In this regard it is relevant to refer to the Full Bench Judgment of this Court in The Government of Tamilnadu and

others Vs. R.Kaliyamoorthy reported in 2019 (5) L.W. 673 wherein the Division of this Court had dealt on the issue of determination of qualifying services as per Rule 11 (4) of Tamilnadu Pension Rules for taking into consideration half of the service rendered in non provincialised services, consolidated pay, honorarium or daily wage basis and the relevant portion of Full Bench Judgment reads as follows :

45. In the light of the above, we answer the reference as follows:-

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

(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."

7. The writ petitioners will come under category (v) of the above judgment. The service of the writ petitioners have been regularised on 23.02.2006 and as they were regularised

after 01.04.2003, in view of the decision of the Full Bench Judgment of this Court cited supra, the writ petitioners are not entitled to count half of their past service for the purpose of determination of qualifying service for pension and hence, the relief sought by the writ petitioners cannot be granted.

8. Accordingly, this Writ Petition is dismissed. No cost.

Sd/-
Assistant Registrar (Writs)

//True Copy//

Sub Assistant Registrar

vrc

To

1. The Secretary to Government,
Municipal Administration & Water supply Department,
Fort St. George, Chennai - 600 001.
2. The Commissioner,
Salem Corporation,
Salem.
3. The Director of Local Fund Audit,
Kuralagam, Chennai - 600 108.

+1cc to Mr.R.Prem Narayan, Advocate S.R.No.14450.
+1cc to the Government Pleader, S.R.No.14651.

सत्यमेव जयते

W.P. No.19471 of 2015

SVI (CO)

VSI-2 (28.05.2020)

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