

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.26611, 26690, 27134 of 2016, 28356 to 28358 of 2016,
28542 to 28545 of 2016, 28591 of 2016 and 2023 of 2017

1 CHALLAKANU ... PETITIONER in WP No.26611 of 2016
1 M.VELU ... PETITIONER in WP No.26690 of 2016
1 R.SUBRAMANI ... PETITIONER in WP No.27134 of 2016
1 A.GOVINDARAJAN ... PETITIONER in WP No.28356 of 2016
1 S.VIJAYAN ... PETITIONER in WP No.28357 of 2016
1 V.PALAMALAI ... PETITIONER in WP No.28358 of 2016
1 P.KUPPUSWAMY ... PETITIONER in WP No.28542 of 2016
1 K.THIRUNAVUKKARASU ... PETITIONER in WP No.28543 of 2016
1 G.BALAJIAH ... PETITIONER in WP No.28544 of 2016
1 A.SABAPATHY ... PETITIONER in WP No.28545 of 2016
1 N.PADMANABHAN ... PETITIONER in WP No.28591 of 2016
1 THARA BAI ... PETITIONER in WP No.2023 of 2017

Vs.

1 THE SECRETARY TO GOVERNMENT
SOCIAL WELFARE & NOON MEAL PROGRAMME-II
DEPARTMENT FORT ST. GEORGE CHENNAI-9.

2 THE COMMISSIONER OF SOCIAL
WELFARE O/O.SOCIAL WELFARE DEPARTMENT
GUINDY CHENNAI-32.

3 THE SECRETARY TO GOVERNMENT
FINANCE (PENSION) DEPARTMENT FORT ST.
GEORGE CHENNAI-9.

... RESPONDENTS in WP No.26611,26690,
27134, 28356 to 28358/2016, 28542 to
28545/2016, 28591/2016.

- 1 THE SECRETARY TO GOVERNMENT
SOCIAL WELFARE & NOON MEAL PROGRAMME
DEPARTMENT FORT ST. GEORGE CHENNAI 600 009
- 2 THE DIRECTOR OF SOCIAL WELFARE
CHENNAI 600 002
- 3 THE PRINCIPAL SECRETARY &
SPECIAL COMMISSIONER INTEGRATED CHILD
DEVELOPMENT SERVICE SCHEME THARAMANI
CHENNAI 600 113
- 4 THE DISTRICT CHIEF DEVELOPMENT
PROGRAMME OFFICER INTEGRATED CHILD
DEVELOPMENT SCHEME VELLORE DISTRICT
VELLORE.
- 5 THE ACCOUNTANT-GENERAL
(ACCOUNTANTS & ENTITLEMENTS) TAMIL NADU 259
ANNA SALAI 3RD BLOCK II FLOOR DMS
COMPUND CHENNAI 600 006

... RESPONDENTS in WP No.2023 of 2017

WP No.26611 of 2016

Writ Petition filed under Article 226 of the Constitution of India , praying for the issuance of a Writ of Mandamus, directing the respondents to consider the claim of the petitioner and pass orders on the representation dated 10.05.2016 to count the service rendered by the petitioner from 1974 to 2010 as Daily wage labour, along with the service rendered as an Night Watchman from 12.04.2010 to 30.09.2015 for the purpose of pensionary benefits and grant him pension and other benefits on account of the above counting of the services within a reasonable time

WP No.26690 of 2016

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, Directing the Respondents to consider the claim of the petitioner and pass orders on the Representation dated 17.05.2016 to count the service rendered by the Petitioner from 1974 to 2010 as Daily wage labour, along with the service rendered as an Night Watchman/ Office Assistant from 16.04.2010 to 31.12.2015 for the purpose of pensionary benefits and grant him pension and other benefits on account of the above counting of the services within a reasonable time

WP No.27134 of 2016

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus Directing the respondents to consider the claim of the petitioner and pass orders on the representation dated 10.5.2016 to count the service rendered by the petitioner from 1971 to 2010 as Daily Wage Labour along with the service rendered as Night Watchman from 20.10.2010 to 31.10.2010 for the purpose of pensionary benefits and grant him pension and other benefits on account of the above counting of the services within a reasonable time

WP No.28356 of 2016

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus Directing the respondents to consider the claim of the petitioner and pass orders on the representation dated 10.5.2016 to count the service rendered by the petitioner from 1973 to 2010 as Daily Wage Labour, along with the service rendered as Night Watchman from 26.4.2010 to till the date of retirement for the purpose pensionary benefits and grant him pension and other benefits on account of the above counting of the services within a reasonable time

WP No.28357 of 2016

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus Directing the respondents to consider the claim of the petitioner and pass orders on the representation dated 11.5.2016 to count the service rendered by the petitioner from 1973 to 2010 as Daily Wage Labour, along with the service rendered as Office Assistant from 15.4.2010 to till the date of superannuation for the purpose pensionary benefits and grant him pension and other benefits on account of the above counting of the services within a reasonable time

WP No.28358 of 2016

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus Directing the respondents to consider the claim of the petitioner and pass orders on the representation dated 11.5.2016 to count the service rendered by the petitioner from 1975 to 2010 as Daily Wage Labour, along with the service rendered as Office Assistant from 12.4.2010 to till the date of retirement for the purpose pensionary benefits and grant him pension and other benefits on account of the above counting of the services within a reasonable time

WP No.28542 of 2016

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus Directing the respondents to consider the claim of the petitioner and pass orders on the representation dated 10.05.2016 to count the service rendered by the petitioner from 1973 to 2010 as Daily wage labour, along with the service rendered as an Night Watchman from 12.04.2010 to 30.09.2015 for the purpose of pensionary benefits and grant him pension and other benefits on account of the above counting of the services within a reasonable time

WP No.28543 of 2016

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus Directing the respondents to consider the claim of the petitioner and pass orders on the representation dated 10.05.2016 to count the service rendered by the petitioner from 1973 to 2010 as Daily wage labour, along with the service rendered as an Night Watchman from 21.04.2010 to 31.12.2015 for the purpose of pensionary benefits and grant him pension and other benefits on account of the above counting of the services within a reasonable time

WP No.28544 of 2016

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus Directing the respondents to consider the claim of the petitioner and pass orders on the representation dated 10.05.2016 to count the service rendered by the petitioner from 1973 to 2010 as Daily wage labour, along with the service rendered as a Office Assistant from 16.04.2010 to 30.11.2014 i.e. the date of his superannuation for the purpose of pensionary benefits and grant him pension and other benefits on account of the above counting of the services within a reasonable time

WP No.28545 of 2016

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus Directing the respondents to consider the claim of the petitioner and pass orders on the representation dated 09.05.2016 to count the service rendered by the petitioner from 1977 to 2010 as Daily wage labour, along with the service rendered as an Night Watchman from 23.10.2010 to 30.11.2010 for the purpose of pensionary benefits and grant him pension and other benefits on account of the above counting of the services within a reasonable time

WP No.28591 of 2016

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents to consider the claim of the petitioner and pass orders on the representation dt 11.5.2016 to count the service rendered by the petitioner from 1973 to 2010 as Daily Wage Labour, along with the service rendered as an Night Watchman from 19.4.2010 to 31.3.2014 for the purpose of pensionary benefits and grant him pension and other benefits on account of the above counting of the services within a reasonable time

WP No.2023 of 2017

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus calling for the records of the 1st respondent in connection with the impugned order passed in letter No.13880/SW4/2/2013/3 dated 11.08.14 (served 21.9.2016) and quash the same and direct the respondent to sanction pension to the petitioner by taking into consideration half of the service rendered by the petitioner as Balasevika from 10.7.82 to 12.10.08 for the purpose of qualifying service for pensionary benefits along with the regular service for pension and pay pension with all consequential service and monetary benefits.

For Petitioner :Mr.K.Venkataramani
Sr. Counsel for
Mr.M.Muthappan

For Respondents 1 to 3: Mr.S.Thangavel, Spl.G.P.

For Respondent No.5
in W.P.No.2023/2017 : Mr.V. Murali

COMMON ORDER

As the relief sought for in all the writ petitions and the issue involved in all the writ petitions are one and the same, this Court is inclined to pass common order.

2. The petitioners herein who have initially served as Helper to Cook, Cook, Balasevika Anganwadi worker in the Centralised Noon Meal Programme under the second respondent on a daily wage basis and consolidated pay and thereafter, temporarily appointed under General Rule 10(a) (1) of Tamilnadu State Subordinate Service, as Night Watchman, Office Assistant by the proceedings of the second respondent, dated 30.3.2010, whose services were regularised after 1.4.2003, seeks half of the service rendered by the petitioners as Helper to Cook, Cook,

Balasevika Anganwadi worker shall be taken into account for the purpose of pensionary benefits. As the request of the petitioners herein was not considered by the authorities concerned, the petitioners have approached this Court in the present writ petitions.

3. The learned Additional Govt. Pleader and the learned Government Advocate appearing for the respondents submitted that the issue pertains to the 50% of the past service rendered by the Government employee prior to regularisation was referred to the Hon'ble Full Bench of this Court and as per the judgment of the Full Bench delivered in a batch of writ appeals in W.A.No.158 of 2016 etc., dated 3.12.2019, the writ petitioners are not eligible for the relief sought for in the writ petitions. The relevant portion of the judgment of the Hon'ble Full Bench reads as follows:

''46 (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.''

4. Considering the facts and circumstances of the case and in the light of the judgment of the Hon'ble Full Bench cited supra, the writ petitioners are not entitled for the relief sought for in the writ petitions.

5. Accordingly, all the writ petitions are dismissed. No costs.

s/d-

Assistant Registrar (CS-III)

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सहायक जज
Sub-Assistant Registrar

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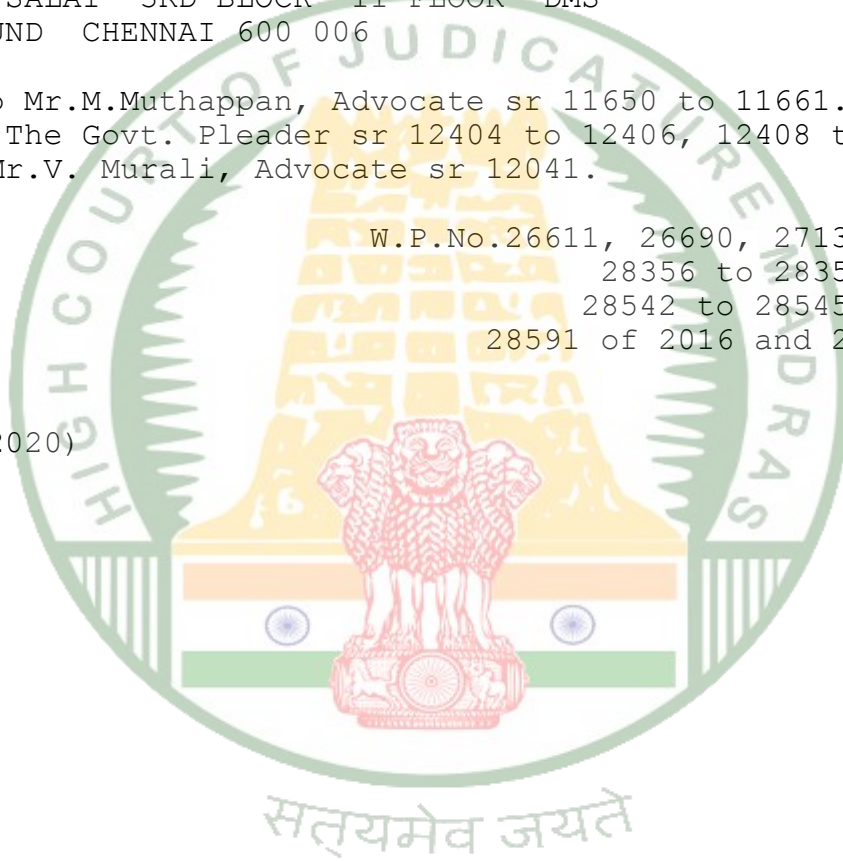
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SOCIAL WELFARE & NOON MEAL PROGRAMME-II
DEPARTMENT, FORT ST. GEORGE CHENNAI-9.
- 2 THE COMMISSIONER OF SOCIAL WELFARE,
O/O.SOCIAL WELFARE DEPARTMENT, GUINDY CHENNAI-32.
- 3 THE SECRETARY TO GOVERNMENT,
FINANCE (PENSION) DEPARTMENT, FORT ST. GEORGE CHENNAI-9.

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PROGRAMME OFFICER INTEGRATED CHILD
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- 6 THE ACCOUNTANT-GENERAL
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ANNA SALAI 3RD BLOCK II FLOOR DMS
COMPUND CHENNAI 600 006

+12 Ccs to Mr.M.Muthappan, Advocate sr 11650 to 11661.
+7 Ccs to The Govt. Pleader sr 12404 to 12406, 12408 to 12411
+1 CC to Mr.V. Murali, Advocate sr 12041.

W.P.No.26611, 26690, 27134 of 2016,
28356 to 28358 of 2016,
28542 to 28545 of 2016,
28591 of 2016 and 2023 of 2017

CP(CO)
SP(18/05/2020)



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