



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).Nos.36, 37, 38, 39 and 40 of 2013

WEB COPY

P.Periyasamy	... Petitioner in WP(MD). 36 of 2013
K.Kanagaraj	... Petitioner in WP(MD). 37 of 2013
N.Vanamoorthy	... Petitioner in WP(MD). 38 of 2013
C.Chingan	... Petitioner in WP(MD). 39 of 2013
R.Veluchamy	... Petitioner in WP(MD).40 of 2013
	-Vs-

1.The Government of Tamil Nadu
Represented by its Principal Secretary,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai.

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

3.The Commissioner,
Rajapalayam Municipality,
Rajapalayam,
Virudhunagar District.

... Respondents in all WPs

Prayer in WP(MD). 36 of 2013:

Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent in Na.Ka.No.H1/1937/12, dated 20.03.2012 and quash the same and direct the respondents to count the 50% of the petitioner's daily wage services for calculating pensionary benefits.

Prayer in WP(MD). 37 of 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.H1/1937/12 dated 10.04.2012 and quash the same and direct the respondents to count the 50% of the petitioner s daily wage services for calculating pensionary benefits.



Prayer in WP(MD). 38 of 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.H1/1937/12 dated 10.04.2012 and quash the same and direct the respondents to count the 50% of the petitioner s daily wage services for calculating pensionary benefits.

Prayer in WP(MD). 39 of 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.H1/1937/12 dated 20.03.2012 and quash the same and direct the respondents to count the 50% of the petitioner s daily wage services for calculating pensionary benefits.

Prayer in WP(MD). 40 of 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.H1/1929/12 dated 29.03.2012 and quash the same and direct the respondents to count the 50% of the petitioner s daily wage services for calculating pensionary benefits.

For Petitioner : Mr.M.Saravan

For R1 and R2 : Mr.P.Mahendran
Additional Government Pleader

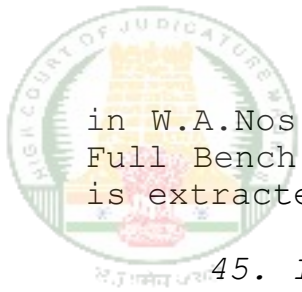
For R3 : Mr.N.Dilipkumar

COMMON ORDER

The relief sought for in all these writ petitions are to quash the order of rejection, rejecting the claim of the writ petitioners for grant of 50% of the counting services and further direction is sought for to count the 50% of the petitioners' daily wage services for calculating the pensionary benefits.

2.With reference to the Amended Rule 11(4) of Tamil Nadu Pension Rules, 1978, the Full Bench of the Madras High Court adjudicated the entire issues and delivered a Judgment on 03.12.2019

<https://hcservices.ecourts.gov.in/hcservices/>



in W.A.Nos.158 of 2016 etc. The reference made before the Hon'ble Full Bench was answered as in Paragraph No.45 of the said Judgment is extracted hereunder:-

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 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."

3.Thus, the case of the writ petitioners are to be considered with reference to the Judgment of the Full Bench cited *supra*. In this regard, the petitioners are at liberty to approach the competent authorities along with the details of the services and on receipt of the same, the competent authorities are bound to consider the case of the writ petitioners with reference to the Judgment of the Full Bench cited *supra* and take a decision and pass orders as expeditiously as possible.



4. With these directions, all these writ petitions stand disposed of. No costs.

WEB COPY

// True Copy //

Sd/-

Assistant Registrar ()

/ /2020

Sub Assistant Registrar(CS)

sjj

To

1. The Principal Secretary,
Government of Tamil Nadu
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai.

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

+1 CC to Mr.N.C. ASHOK KUMAR, Advocate (SR-20308[F] dated 16/10/2020)

+1 CC to Mr.N. DILIPKUMAR, Advocate (SR-20435[F] dated 16/10/2020)

+1 CC to Spl GP (SR-20482[F] dated 16/10/2020)

W.P. (MD) .Nos.36, 37, 38, 39 and 40 of 2013
15.10.2020

VB (05.11.2020) 4P 6C