



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD).No.18604 of 2014

A.Amudavalli

... Petitioner

-Vs-

- 1.The Government of Tamilnadu,
Represented by its Principal Secretary,
Department of School Education,
Fort St. George,
Chennai.
- 2.The Principal Secretary,
Social Welfare and NutritiousMeal Programme,
Fort St. George,
Chennai.
- 3.The District Social Welfare Officer,
Nanji Kottai Road,
Thanjavur.
- 4.Principal Accountant General
(Account and Entitlements)
Tamilnadu,
No.361, Annasalai,
Chennai-600 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings of Fourth respondent in PEN 27/ 4/ 12702572 / 10-11/RTD/ RIO dated 21.09.2010 and quash the same and consequently direct the 4th respondent to fix the pension taking into account the petitioner's 50% service as Balasevika / Children welfare Organiser and her entire service as Rural Service.

For Petitioner : Mr.M.Ashok Kumar
For R1 to R3 : Mr.P.Mahendran
Additional Government Pleader
For R4 : Mr.P.Gunasekaran

ORDER

The impugned order states that the writ petitioner has served as Balasevika from 08.02.1980 to 31.05.2007. On promotion, she was posted as Rural Welfare Officer (Women) with effect from 01.06.2007 in the time scale of pay. The service of the petitioner has been regularised with effect from 01.6.2007. Thus the name of the petitioner was included in the contributory pension scheme. The



cut of date for the old pension scheme is 01.04.2003.

2. In view of the fact that the petitioner was regularly appointed in the year 2007 and her name was included in the contributory pension scheme. Regarding counting of 50% of the service rendered in temporary post.

3. 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 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:-

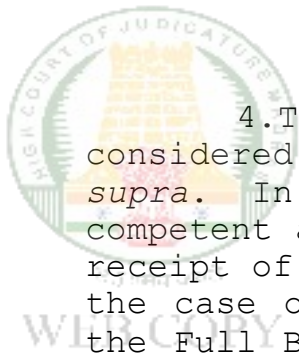
i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003

(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."



4.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 petitioner is 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 petitioner with reference to the Judgment of the Full Bench cited *supra* and take a decision and pass orders as expeditiously as possible.

5.With these directions, this writ petition stand disposed of. No costs.

Sd/-

Assistant Registrar (CII)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

dss/vsg

To

- 1.The Principal Secretary,
Government of Tamilnadu,
Department of School Education,
Fort St. George, Chennai.
 - 2.The Principal Secretary,
Social Welfare and NutritiousMeal Programme,
Fort St. George, Chennai.
 - 3.The District Social Welfare Officer,
Nanji Kottai Road,
Thanjavur.
 - 4.Principal Accountant General
(Account and Entitlements)
Tamilnadu, No.361, Annasalai,
Chennai-600 018.
- +1 CC to M/s.M. ASHOK KUMAR, Advocate (SR-22107[F] dated 19/11/2020

W.P. (MD).No.18604 of 2014
11.11.2020

ARK(CO)

KB(27.11.2020) 3P 6C