



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

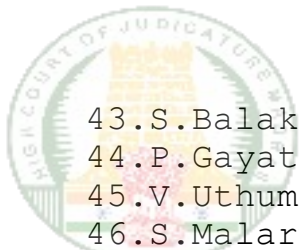
W.P. (MD) .No.19097 of 2014

and

MP (MD) Nos.2 and 3 of 2014

WEB COPY

- 1.S.Balakrishnan
- 2.G.Padmavathy
- 3.K.Lakshmanan
- 4.M.Sundaralingam
- 5.C.Sundaralakshmi
- 6.T.Sumathi
- 7.K.Thenmozhi
- 8.N.Muthu Janaki
- 9.S.Revathi
- 10.C.Sridhar
- 11.P.Rajeswari
- 12.R.Kathiresan
- 13.B.Sivamani
- 14.B.Ram Amarnath
- 15.V.Renuka Devi
- 16.M.Radha
- 17.R.Shivakumar
- 18.M.Lakshmi Bai
- 19.V.S.Buhari
- 20.S.Regan
- 21.S.Gnanavel
- 22.D.Rani
- 23.R.Komalavalli
- 24.P.Balachandran
- 25.M.Premalatha
- 26.M.Kanakammal
- 27.N.Padmalavanya
- 28.G.Sarasvathy
- 29.D.Barnabass
- 30.C.P.Pandi
- 31.R.Kamalakaran
- 32.P.Senthilarasu
- 33.K.Soundeeswari Thilagam
- 34.P.Saraswathi
- 35.M.Hemalatha
- 36.M.Revathy
- 37.V.Muruganandam
- 38.R.V.Kavitha
- 39.A.Sivakumar
- 40.S.K.T.Senthilnathan
- 41.S.J.Muthuselvi
- 42.P.Muthuswami



43.S.Balakrishnan
44.P.Gayathri
45.V.Uthuman Kutty
46.S.Malarvizhi
47.S.Krishnasamy
48.O.Geethalakshmi
49.C.Usharani
50.P.Maharani
51.G.Punithavathi
52.S.Michael Babu
53.V.Saraswathy
54.C.Vasanthi

... Petitioners

-Vs-

1.The State of Tamil Nadu,
The Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai-09.

2.The Secretary to Government,
Finance (Pension) Department,
Secretariat, Chennai-09.

3.The Director of Medical Education,
Kilpauk, Chennai-10.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent in connection with the order passed by him in Letter No.45737/C2/2013-2, dated 15.04.2014 communicated to the petitioners by the third respondent vide his letter dated 30.04.2014 in Ref.No.51749/E5/2/10 along with the order passed by the second respondent in Letter No.92399/Pension/2005-1, dated 13.04.2006 and quash both the orders and direct the respondents to take the petitioners to the old pension scheme as they were all recruited to Government service in 2002 itself before the date of introduction of the new contributory pension scheme, i.e., 01.04.2003 by regularizing the service of the petitioners with effect from the date of initial appointment.

For Petitioners	: Mr.R.Singaravelan Senior Counsel for Mr.D.Selvanayagam
For Respondents	: Mr.C.M.Mari Chelliah Prabhu Additional Government Pleader

ORDER

The relief sought for in the present writ petition is to extend the benefits of Old Pension Scheme to the petitioners by

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regularizing the services of the petitioners with effect from the date of initial appointment.

2. The learned Senior Counsel for the writ petitioners reiterated that the issues regarding the application of Old Pension Scheme under the Tamil Nadu Pension Rules 1978, is settled by the Hon'ble Full Bench of this Court in the case of **Government of Tamil Nadu Vs. R.Kaliyamoorthy in W.A.Nos.158 etc., of 2016, dated 03.12.2019**. The Hon'ble Full Bench answered the reference in Paragraph No.45 of the Judgment, which reads as under:-

"...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.The learned Senior Counsel for the writ petitioners made a submission that the case of the writ petitioners fall under sub-class (ii) of paragraph No.45 of the Judgment. However, the facts regarding the petitioners are to be verified with reference to their respective service registers and accordingly, the respondents are directed to consider the case of the petitioners in the light of the Judgment of the Hon'ble Full Bench cited *supra* and take a decision and pass appropriate orders as expeditiously as possible and preferably within a period of twelve weeks from the date of receipt of a copy of this order.

4.With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

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To

1.The Secretary to Government,
The State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai-09.

2.The Secretary to Government,
Finance (Pension) Department,
Secretariat, Chennai-09.

3.The Director of Medical Education,
Kilpauk, Chennai-10.

+1 CC to SGP (SR-24614[F] dated 09/12/2020)

+1 CC to Mr.D.SELVANAYAGAM, Advocate (SR-24552[F] dated 09/12/2020)

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KVN(CO)

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