



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2020

CORAM:

THE HONOURABLE **MR. JUSTICE S.M. SUBRAMANIAM**

W.P. (MD) Nos. 22461 and 22462 of 2015

1.P.Sankar ... Petitioner in W.P(MD).No.22461/2015
2.Palanisamy ... Petitioner in W.P(MD).No.22462/2015

Vs.

1.The Secretary to Government,
Revenue Department,
Fort St.George, Chennai-9.

2.The Branch Officer,
Office of the Accountant General,
361, Anna Salai, Chennai.

3.The Revenue Divisional Officer,
Usilampatti, Madurai District.

4.The Tahsildar,
Office of Tahsildar,
Peraiyur, Madurai District.

... Respondents in both W.Ps

PRAYER in W.P(MD).No.22461 of 2015: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to count the 50% of petitioner's prior service of regularization along with regular service for grant of proper pension and to refix the pension on the basis of his total service, revised pension, arrears and other monetary benefits accrued thereon to the petitioner from the date of his retirement within a short date that may be fixed by this Court.

PRAYER in W.P(MD).No.22462 of 2015: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 2nd respondent herein in PEN 26/3/PT 8527/70457 dated 14.10.2015 and quash the same, consequently, directing the respondents to count the 50% of petitioner's prior service of regularization along with regular service for grant of proper pension and to refix the pension on the basis of his total service, revised pension, arrears and other monetary benefits accrued thereon to the petitioner from the date of his retirement within a short date that may be fixed by this Court.



For Petitioners in
both W.Ps : M/s.K.Abiya

For R1, R3 and R4 : Mr.P.Mahendran
in both W.Ps Additional Government Pleader

For R2 in both
W.Ps : Mr.P.Gunasekaran

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COMMON ORDER

The relief sought for in these writ petitions is to count 50% earlier service rendered by the writ petitioners.

2.The Hon'ble Full Bench of this Court settled the legal principles with reference to the amended rule 11(4) of the Tamil Pension Rules, in the case of **GOVERNMENT OF TAMILNADU VS. KALIYAMOORTHY** reported in **2020(2)MLJ 369**. The relevant paragraph is extracted hereunder:

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

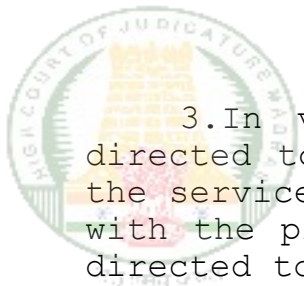
i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of W.A.No.158 of 2016 etc., batch proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003

(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."



3. In view of the judgment cited supra, the respondents are directed to consider the case of the writ petitioners by verifying the service records and if they are otherwise eligible in accordance with the principles settled as per the rules in force, the case is directed to be considered and appropriate order is to be passed.

4. With these directions, these Writ Petitions stand disposed of. No costs.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar (CS)

To

1. The Secretary to Government,
Revenue Department,
Fort St. George, Chennai-9.

2. The Revenue Divisional Officer,
Usilampatti, Madurai District.

3. The Tahsildar,
Office of Tahsildar,
Peraliyur, Madurai District.

+2CC to SPECIAL GOVERNMENT PLEADER, SR 25763 & SR 25753

+2CC to K.ABIYA, SR 25898 & SR 25899

Order made in
WP (MD) Nos.22461 and 22462 of 2015
15.12.2020

NS

SRS/07.01.2021/3P/8C