



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**

AND

THE HONOURABLE MRS.JUSTICE **S.ANANTHI**

W.A. (MD) Nos. 630 & 631 of 2021

and

C.M.P. (MD) Nos. 2815 to 2817 of 2021

The Commissioner,
Nagercoil Municipality (Now Upgraded as Corporation),
Nagercoil,
Kanyakumari District.

: Appellants in both WAs
Vs.

1.P.Kathiresan

: 1st respondent in W.A. (MD) 630/2021
/ Petitioner in W.P. (MD) 6568/2017

1.P.Kanmony

: 1st respondent in W.A. (MD) 631/2021
/ Petitioner in W.P. (MD) 6570/2017

2.State of Tamil Nadu,
Rep. by its Secretary,
Municipal and Water Supply Department,
Fort St.George,
Chennai - 600 009.

3.The Director,
Local Fund Audit Department,
4th Floor, Kuralagam,
Chennai - 600 108.

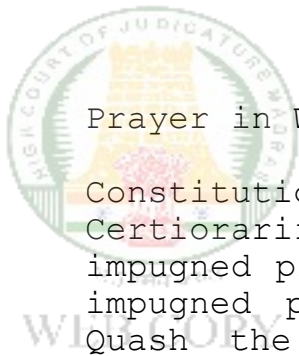
4.The Director of Town Panchayats,
Kuralagam Buildings,
Chennai - 600 108.

5.The Assistant Director,
Local Fund Audit Department,
Nagercoil,
Kanyakumari District.

6.The Assistant Director of Town Panchayat,
Collectorate Campus,
Nagercoil,
Kanyakumari District.

: Respondents 2 to 6 in both WAs

COMMON PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent as against the common order dated 08.11.2019 made in W.P. (MD) Nos. 6568 & 6570 of 2017.



Prayer in WP(MD). 6568/ 2017 :

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 relating to the impugned proceedings issued by the 6th respondent Commissioner vide impugned proceedings in Na.Ka.No.116672/2016/C2 dated 24.10.2016, Quash the Same, and further Direct the respondents herein to sanction and disburse forthwith the pension benefits due to the petitioner viz., the General Provident Fund, Gratuity, Pension admissible to the petitioner with penal interest at the rate of 18%.

Prayer in WP(MD). 6570/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing the respondents herein to sanction and disburse forthwith the pension benefits due to the petitioner viz., the General provident Fund, Gratuity, Pension admissible to the petitioner with penal interest at the rate of 18%.

For Appellant : Mr.P.Athimoolapandian,
Standing Counsel
For Respondents : Mr.T.Cibi Chakraboorthy
for R.1
Mrs.J.Padmavathi Devi,
Special Government Pleader
for R.2 to R.6
in both WAS

COMMON JUDGMENT

(Judgment of the Court was delivered by **M.M.SUNDRESH, J.**)

The appellant has come forward to file these writ appeals challenging the order of the learned Single Judge, by which, the writ petitions filed were allowed, *inter alia*, holding that the writ petitioners, despite being regularized after 01.04.2003, are entitled to the regular pension. The learned Single Judge had placed reliance upon the order of the Division Bench governing the said issue.

2. Today, when the matter is taken up for hearing, the learned Standing Counsel appearing for the appellant and the learned Counsel appearing for the writ petitioners submitted that the issue is no longer *res integra*. A Full Bench of this Court in W.A.Nos.158 of 2016, etc., batch, dated 03.12.2019, was pleased to hold that the Government servant, whose service was regularized after 01.04.2003, will not be entitled to count half of the past service for the purpose of determining the qualifying service for pension.

3. In view of the aforesaid position, the common order passed by the learned Single Judge in W.P.(MD)Nos.6568 & 6570 of 2017,



dated 08.11.2019, stands set aside and the writ appeals stand ordered accordingly. We place on record the fair submission made by the learned Counsel appearing for the writ petitioners. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

To

1.The Secretary to Government,
State of Tamil Nadu,
Municipal and Water Supply Department,
Fort St.George,
Chennai - 600 009.

2.The Director,
Local Fund Audit Department,
4th Floor, Kuralagam,
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3.The Director of Town Panchayats,
Kuralagam Buildings,
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4.The Assistant Director,
Local Fund Audit Department,
Nagercoil,
Kanyakumari District.

5.The Assistant Director of Town Panchayat,
Collectorate Campus,
Nagercoil, Kanyakumari District.

+2 CC to M/s.T.CIBI CHAKRABORTHY, Advocate (SR-12417[F] dated 19/03/2021)

+1 CC to M/s.SPL GP (SR-12748[F] dated 22/03/2021)

W.A. (MD) Nos. 630 & 631 of 2021
19.03.2021

PK (CO)
KB (28.04.2021) 3P 9C