



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.1491 of 2014

and

M.P(MD)No.1 of 2014

1.The Government of Tamil Nadu,
Rep. by Principal Secretary to Government,
Finance (Pension) Department,
Fort St. George,
Chennai.

2.The Principal Chief Conservator of Forests,
Panagal Building,
Genis Road, Saidapet,
Chennai - 15.

3.The District Forest Officer,
Race Course Road,
Madurai.

... Appellants / Respondents 1, 2 & 4

Vs.

1.A.Packiam

... 1st Respondent / Writ Petitioner

2.The Principal Accountant General,
O/o.The Principal Accountant General of Tamil Nadu,
Teyanampet,
Chennai - 18.

... 2nd Respondent / 3rd Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order, dated 09.09.2014 made in W.P(MD)No.5911 of 2014 on the file of this Court.

Prayer in WP(MD). 5911/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the Respondents from 1, 2 and 4 to count the half of the service rendered by the petitioner as a social



forestry worker from 01.09.1980 to 06.08.2009 along with the regular service as Plot Wardner from 07.08.2009 to 14.07.2011 as a qualifying service and send the revised pension proposal to the 3rd Respondent and to further direct the 3rd Respondent to sanction the eligible pension and all other terminal benefits to the petitioner.

For Appellants : Mr.K.P.Narayana Kumar
Special Government Pleader

For R - 1 : No appearance

For R - 2 : Mr.P.Gunasekaran

JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

The Writ Appeal is preferred by the Government challenging the order passed in W.P(MD)No.5911 of 2014, dated 09.09.2014.

2.The first respondent, who was the petitioner in the Writ Petition, was appointed as a Social Forest Worker in the Forest Department on 01.09.1980 and his appointment was on daily wage basis. On 07.08.2009, he was regularised as a plot watcher and he retired on 04.07.2011. The first respondent / writ petitioner sought for a direction to the appellants and second respondent / respondents to count half of his service, ie., from 01.09.1980 to 06.08.2009, the period for which he was a temporary worker along with his regular service as plot watcher from 07.08.2009 till his retirement as qualifying service for fixing pension and passing of consequential monetary benefits.

3.The said Writ Petition was disposed of with a direction to the third appellant / fourth respondent to make a proposal counting the service of the first respondent / writ petitioner as Social Forest Worker from 01.09.1980 to 06.08.2009 along with his regular service and send the same to the second respondent / third respondent for paying pension. Challenging the same, the present Writ Appeal is preferred.

4.Be that as it may, pending the Writ Petition there was a Full Bench reference in ***W.A.Nos.158 of 2016 and batch of cases, dated 03.12.2019 [The Government of Tamil Nadu, Rep. by Secretary to Government, Public Works Department, Secretariat, Chennai Vs. R.Kaliyamoorthy]***, in which the above question was answered. The Hon'ble Full Bench of this Court has passed the following order, which reads as follows:-



"46.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 the 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 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 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."

5.Clause (iv) of the above paragraph specifically stated that the Government servants, who are appointed after the cut-off date of 01.04.2003, will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension. Admittedly, the first respondent / writ petitioner was regularised only on 07.08.2009. Hence, he will not be entitled to the above benefits.

6.The learned counsel appearing for the second respondent / third respondent also conceded to the fact that the decision of the Hon'ble Full Bench is applicable to the facts of the case.

7.In view of the decision of the Hon'ble Full Bench (cited *supra*) the Writ Appeal stands allowed and the order of the



learned Single Judge is set aside. No costs. consequently,
connected Miscellaneous Petition is closed.

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// True Copy //

Sd/-

Assistant Registrar (P&A)

/ /2021

Sub Assistant Registrar(CS)

ps

Note :

In view of the present lock down
owing to COVID-19 pandemic, a web
copy of the order may be utilized
for official purposes, but,
ensuring that the copy of the order
that is presented is the correct
copy, shall be the responsibility
of the advocate / litigant
concerned.

To

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+1 CC to SGP (SR-1375[F] dated 20/01/2021)

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