



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.885 of 2014

Public Health Department Health Inspector Association,
Rep. by its President
R.Paneer Selvam

... Appellant / Petitioner

Vs.

1.State of Tamil Nadu,
Represented by its Principal Secretary,
Department of Health and Family Welfare,
Secretariat, St. George Fort,
Chennai.

2.The Director of Public Health and Preventive Medicine,
O/o. The Director of Public Health and Preventive Medicine,
Thenampettai,
Chennai.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to
set aside the order in W.P(MD)No.12129 of 2013 dated 26.07.2013 on
the file of this Court and allow the writ petition.

Prayer in WP(MD). 12129/ 2013 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a Writ of
Mandamus, directing the respondent No.1 and 2 to notionally fix the
date of appointment the members of the petitioner association in the
vacancies arose prior to the year of 2003 and consequently to grant
the benefits of the pension scheme within the time stipulated by
this Honble Court.

For Appellant : Mr.T.Aswin Rajasimma for
Mr.T.Lajapathi Roy

For Respondents : Mr.K.P.Narayanakumar
Special Government Pleader

JUDGMENT

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

The Writ Appeal is preferred by the appellant Association
challenging the order passed in W.P(MD)No.12129 of 2013, dated

26.07.2013
<https://hcservices.ecourts.gov.in/hcservices/>



2. Brief facts of the case are as follows:

The members of the appellant Association were appointed only in the year 2006. They had sought for retrospective notional fixation of the date of appointment, prior to 2003. The appellant/Health Inspectors Association of Public Health Department, Theni District, represented by its President, had filed the writ petition seeking for a Mandamus, directing the respondents to notionally fix the date of appointment of the members of the Association, in the vacancies, which arose prior to the year 2003 and grant benefits of the Pension Scheme. The said Writ Petition was dismissed by the learned single Judge. Challenging the same, the present Writ Appeal is preferred.

3. Heard learned counsel appearing on either side and perused the materials available on record.

4. The point to be decided in this writ appeal is no longer *res integra*. 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 members of the appellant Association were appointed only in the year 2006. Hence, they will not be entitled to the above benefits.

6.In view of the decision of the Hon'ble Full Bench (cited supra), the Writ Appeal stands dismissed and the order of the learned Single Judge is confirmed. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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

1.The Principal Secretary,
State of Tamil Nadu,
Department of Health and Family Welfare,
Secretariat, St. George Fort,
Chennai.

2.The Director of Public Health and Preventive Medicine,
O/o. The Director of Public Health and Preventive Medicine,
Thenampettai,
Chennai.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-1209[F] dated 19/01/2021
+1 CC to M/s.GP (SR-1379[F] dated 20/01/2021)

W.A(MD)No.885 of 2014
18.01.2021

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