



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WEB COPY

S.Kumar

Writ Petition (MD)No.10403 of 2017

... Petitioner

Vs.

1.The Government of Tamil Nadu
represented by its Secretary,
Social Welfare and Nutritious Meal Programme,
Fort St. George,
Chennai 600 009.

2.The Director of Social Welfare,
SIPCOT,
Guindy,
Chennai 600 032.

3.The Accountant General,
301, Anna Salai,
Thenampet,
Chennai 600 018.

4.The Block Development Officer,
Thiruppananthal Union,
Thanjavur District.

5.The Headmaster,
Kondasamudhram Aided Elementary School,
Thiruppananthal Union,
Thanjavur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to calculate the pensionable period of the service for the petitioner by taking into account the 50% of service of the petitioner as rendered as Noon Meal Organiser from 01.04.1983 to 13.09.2010.

For Petitioner	: Mr.C.M.Arumugam
For R1 & R2	: Mr.C.M.Marichelliah Prabhu Additional Government Pleader
For R3	: Mr.P.Gunasekaran
For R4	: Mr.T.S.Mohamed Mohideen
For R5	: No appearance



ORDER

This writ petition has been filed for issuance of a Writ of Mandamus directing the respondents to calculate 50% of the service rendered by the petitioner as Noon Meal Organiser from 01.04.1983 to 13.09.2010, as qualifying service for the purpose of pensionary benefit.

2. The case of the petitioner is that he was appointed as Noon Meal Organiser in the fifth respondent School in the year 1983. Thereafter, he was appointed as Teacher in the Government Higher Secondary School, Thirumarugal, Nagapattinam District, on 01.10.2010, through employment exchange. Further, he retired from service on 30.09.2016. After superannuation, in order to avail a pensionary benefit, the petitioner has made a representation on 28.02.2017, to the respondents. However, till date no order was passed. Hence, the petitioner has filed the present writ petition for a direction to the respondents to calculate 50% of the service rendered as Noon Meal Organiser as qualifying service for the purpose of pensionary benefit, in terms of G.O.(Ms.)No.6, Social Welfare and Nutritious Meal Programme Department, dated 06.01.2010.

3. The learned counsel appearing for the petitioner would submit that the issue involved in the present writ petition is no longer *res integra* and it was decided by this Court in W.P.Nos.23144 to 23152 of 2015. Hence, he prayed for allowing of this writ petition.

4. Per contra, the learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that the very same issue was challenged before this Court in W.A.(MD).Nos.587 of 2014 etc., batch and this Court, by judgment dated 03.12.2014, allowed the writ appeals and set aside the order of the learned single Judge and held that the Noon Meal Organisers are not entitled to count 50% of their services rendered in Noon Meal Programme and ICDS services. In view of the above, this writ petition is misconceived. Accordingly, he prayed for dismissal of this writ petition.

5. Considering the facts and circumstances of the case, the issue arises for consideration in the present writ petition is whether the petitioner is entitled to count 50% of the service rendered as Noon Meal Organiser for pensionary benefit or not. Though there was a conflict in between the two Division Benches, the said issue was referred to the Full Bench of this Court and the Full Bench of this Court in the case of ***the Government of Tamil Nadu vs. R.Kaliyamoorthy*** reported in **2019(6) CTC 705**, after analysing the entire issue, held as follows:

"(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 in 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."

6. Since the issue already been decided by the Hon'ble Full Bench of this Court, the prayer sought for by the petitioner in the present writ petition cannot be granted. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CSII)

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Sub Assistant Registrar(CS)

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 Secretary,
Government of Tamil Nadu,
Social Welfare and Nutritious Meal Programme,
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Chennai 600 009.
- 2.The Director of Social Welfare,
SIPCOT,
Guindy,
Chennai 600 032.
- 3.The Accountant General,
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Thenampet,
Chennai 600 018.



4.The Block Development Officer,
Thiruppananthal Union,
Thanjavur District.

+1 CC to M/s.SPL GP (SR-11007[F] dated 15/03/2021)

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-11134[F] dated 15/03/2021)

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KB(24.06.2021) 4P 7C