



**W.P.(MD)No.1827 of 2020**

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 19.12.2022**

**CORAM:**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P.(MD)No.1827 of 2020**

M.Mariappan

... Petitioner

Vs.

1. The State of Tamil Nadu  
Rep. by its Principal Secretary to Government  
Revenue Department,  
Secretariat, Chennai.
2. The Principal Accountant General (A&E)  
No.361, Anna Salai,  
Chennai- 600 018.
3. The Joint Director of Collegiate Education  
Tirunelveli Region,  
Tirunelveli.
4. The Secretary  
Sri Parasakthi College for Women,  
Courtallam, Tenkasi Taluk  
Tirunelveli District

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus Calling for the records



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of the impugned order of the 2<sup>nd</sup> respondent in No.P25/4/12520246/ADK dated 15.07.19 and quash the same and consequently direct the respondents to revise the pension by calculating 50% of the period of service rendered on consolidated pay as Herbarium Keeper in a permanent full time post from 01.04.1966 to 31.03.1978 for a period of 11 years, 11 months and 30 days as per Section 11(4) of the Tamil Nadu Pension Rules, 1978 and pay the benefits within the time fixed by this Court.

|                |                                               |
|----------------|-----------------------------------------------|
| For Petitioner | : Mr.H.Arumugam                               |
| For R1 & R3    | : Mr.J.Ashok<br>Additional Government Pleader |
| For R2         | : Mr.P.Gunasekaran                            |
| For R4         | : Mr.C.Gunaseelanmuthaiah                     |

### **ORDER**

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order of the 2<sup>nd</sup> respondent in No.P25/4/12520246/ADK dated 15.07.2019 and for consequential direction to the respondents to revise the pension by calculating 50% of the period of service rendered on consolidated pay as Herbarium Keeper in a permanent full time post from 01.04.1966 to



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31.03.1978 for a period of 11 years, 11 months and 30 days as per Section 11(4) of the Tamil Nadu Pension Rules, 1978 and pay the benefits within the time fixed by this Court.

2. The case of the petitioner is that the petitioner was originally appointed as Herbarium keeper on 01.04.1966 in Sri Parasakthi College for women , Courtrallam on consolidated pay. Later, his service was regularised on 01.04.1978 with time scale of pay. The petitioner has been served as Herbarium Keeper in a permanent post on consolidated pay from 01.04.1966 to 31.3.1978 for a period of 11 years 11 months and 30 days. After attaining the age of superannuation, the petitioner retired from service on 30.11.1995. But the petitioner has been granted pension by calculating the period of service from 01.04.1978 without taking into consideration of his service as Herbarium Keeper on consolidated pay i.e. 01.04.1966 to 31.03.1978. According to the petitioner, as per Rule 11(4) of the Tamil Nadu Pension Rules, 1978, 50% of the service rendered under non provincialised service shall be taken into account for the purpose of pensionary benefits. Since the same was



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rejected to the petitioner, he is before this court. During the pendency of the writ petition the petitioner has passed away and hence impleading petition is filed and the legal heirs of the writ petitioner are brought on record.

3. This court perused the impugned order. The same would reveal that the petitioner was initially appointed by the fourth respondent on 15.06.1966 but in the unapproved post and the consolidated salary was paid by the fourth respondent management. Subsequently, the petitioner was appointed on 01.04.1978 in the available vacance.

4. The learned Additional Government Pleader appearing for the respondents 1 and 3 has filed a counter affidavit. The relevant portion of the same is extracted hereunder:

3. I humbly submit the following preliminary submissions to bring the relevant facts to the kind notice of the Hon'ble High Court.

(i) The 4<sup>th</sup> respondent College, Sri Parasakthi College for Women, Courtrallam, Tenkasi District is an aided



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college run by Hindu Religious & Charitable Endowment. This college is fully governed by the Tamilnadu Private Colleges Regulation Rules and Act 176.

(ii) That the petitioner was working as Herbarium Keeper in the 4<sup>th</sup> respondent college with effect from 01.04.1978.

(iii) That the petitioner has attained superannuation on 01.12.1995 and retired from his service on 30.11.1995. The pension proposal of the petitioner was received from the Secretary of the 4<sup>th</sup> respondent college dt 21.7.1995 in the 3<sup>rd</sup> respondent's office. And the same was forwarded to the 2<sup>nd</sup> respondent vide Lr.no:c4/15409/95 dt 13.11.1995.

(iv) That the eligible pension was sanctioned to the petitioner by the 2<sup>nd</sup> respondent vide his order no:AG (A&E/PEN25/II/M90-831, AR/95-96/1899 dt: 27.03.1996.

(v) That the petitioner sent a representation dated 05.4.2018, to the 4<sup>th</sup> respondent requesting the inclusion of his service rendered under consolidated pay basis (15.06.1966 to 31.03.1978) to the qualifying service in his revised pension calculation. The 4<sup>th</sup> respondent college vide his Lr.no.:490/A3/2018 dt 12.5.2018 forwarded the petitioner's representation to the RJDCE, the 3<sup>rd</sup> respondent herein, recommending the consideration of his request.



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(vi) That the 3<sup>rd</sup> respondent vide his letter Mu.Mu. No:490/c1/2018 dated 21.10.2018 called for some additional particulars containing the Service Register entry regarding the fund from which the consolidated pay has been paid to the petitioner. Accordingly, the 4<sup>th</sup> respondent college has sent the additional particulars with the Service Register entry which clearly reveals the consolidated pay has been paid to the petitioner for the period 15.06.1966 to 31.03.1978, from the College Management fund.

(vii) That the revised pension proposal of the petitioner was sent to the O/o the Accountant General vide 3<sup>rd</sup> respondent's letter no:15986/2018 dated 22.03.2019.

(viii) But, the proposal seeking revised pension including the above said consolidated pay service as qualifying service was returned to the 3<sup>rd</sup> respondent's office stating that, "For the period from 15.06.1966 to 31.03.1978, the school management has paid from their school fund the Consolidated pay to Sri Mariappan M holder of PPO No T 112549 vide pages 4 & 21 of vol 2 of service book. Hence, half of the above service as per G.O. 408 cannot be taken as qualifying service. (for the above service period consolidated pay has to be paid from the CONSOLIDATED FUND OF THE STATE.)"

(ix) Moreover, the petitioner died on 14.06.2021"



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5. On hearing both sides and perusing the materials available on record, it is seen that the petitioner was initially appointed as Herbarium Keeper on 01.04.1966 and his service was regularised on 01.04.1978 and the petitioner retired from service on 30.11.1995. However, a perusal of the counter affidavit filed by the respondent would show that his service rendered under consolidated pay basis from 15.06.1966 to 31.3.1978 was not approved by the official respondents. The petitioner was appointed by the 4th respondent in that post and for that period, the 4th respondent paid consolidated salary to the petitioner. However, the petitioner was appointed in sanctioned post only on 01.4.1978 and from that date, the petitioner rendered his service in the sanctioned post and subsequently retired in the year 1995. However, he made a representation for calculating 50% of the period of service rendered on consolidated pay as Herbarium Keeper from 01.04.1966 to 31.03.1978 i.e a period of 11 years, 11 months and 30 days as per Section 11(4) of the Tamil Nadu Pension Rules, 1978 and pay the benefits for the said period. The said representation was rejected by the second respondent. In the considered opinion of this Court, the impugned order



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rejecting the petitioner's claim is perfectly in order and the same does not warrant any interference by this Court. Accordingly, this Writ Petition is dismissed. No costs.

**19.12.2022**

Index : Yes/No  
Internet : Yes/No  
CM

To

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2. The Principal Accountant General (A&E)  
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**M.DHANDAPANI,J.**

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