



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.10457 of 2019

M.Petchiyammal

... Petitioner

-vs-

1. The State of Tamil Nadu,
Rep.by its Secretary to Government,
Environment and Forest Department,
Fort St.George,
Chennai-9.
2. The Principal Chief Conservator of Forest,
Panagal Building,
Saidapet, Chennai-15.
3. The District Forest Officer,
Sirumalai IFF Division,
Dindigul, Dindigul District.
4. The Principal Accountant
General of Tamil Nadu,
Teynampet,
Chennai-18.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 to 3 to count the half of service rendered by the petitioner's husband as Plot Watcher from 01.04.1983 on temporary basis along with regular service to till the date of death on 08.08.2016 as qualifying service for the purpose of conferment of family pension and to direct the respondents to send pension proposal to the fourth respondent to authorize the same with all consequential benefits with effect from the date of death within time frame.



For Petitioner : Mr.K.Jenitha

For Respondents : Mr.M.Ramesh,
Government Advocate for RR1 to 3

: Mr.P.Gunasekaran for R4

WEB COPY

O R D E R

The relief sought for in the present writ petition is to direct the respondents 1 to 3 to count the half of service rendered by the petitioner's husband as Plot Watcher from 01.04.1983 on temporary basis along with regular service till the date of death on 08.08.2016 as qualifying service for the purpose of conferment of family pension and to direct the respondents to send pension proposal to the fourth respondent to authorize the same with all consequential benefits with effect from the date of death within a time limit stipulated by this Court.

2. The claim of the petitioner is to count 50% of service rendered by the petitioner's husband on temporary basis in the post of Plot Watcher. The petitioner's husband was appointed on temporary basis in the post of Plot Watcher in the year 1983. His services were regularised on 05.06.2008. He died, while he was in service. The petitioner is the wife of the deceased employee and she seeks the relief of regularisation and to count the period of temporary services.

3. This Court is of the considered opinion that the benefit of regularisation is to be claimed only by the employee concerned and not by the legal heirs. As far as the counting of temporary service is concerned, the conditions stipulated in Rule 11(4) of the Tamil Nadu Pension Rules, 1978 are to be followed. In this regard, the Hon'ble Full Bench of this Court considered the scope of Rule 11(4) of the said Rules and delivered a judgment in the case of **Government of Tamil Nadu vs. R.Kaliyamoorthy** reported in **2019 (6) CTC 705** and the relevant portion of the judgment is extracted hereunder:-

5. 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 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 such 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 before 01.04.2003 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."

4. In view of the principles of the Hon'ble Full Bench of Court, the case of the petitioner is to be considered with reference to the service records of her husband and if he is otherwise eligible for counting 50% service, the said benefit is to be extended as per the principles laid down by the Hon'ble Full Bench and further actions are to be taken if necessary.

5. Accordingly, the Writ Petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb



To

1. THE SECRETARY TO GOVERNMENT,
ENVIRONMENT AND FOREST DEPARTMENT,
FORT ST.GEORGE,
CHENNAI-9.
 2. THE PRINCIPAL CHIEF CONSERVATOR OF FOREST,
PANAGAL BUILDING,
SAIDAPET, CHENNAI-15.
 3. THE DISTRICT FOREST OFFICER,
SIRUMALAI IFF DIVISION,
DINDIGUL, DINDIGUL DISTRICT.
 4. THE PRINCIPAL ACCOUNTANT GENERAL OF TAMIL NADU,
TEYNAMPET,
CHENNAI-18.
- +1 CC to M/s.SPL.GOVERNMENT PLEADER
(SR-20893[F] dated 25/04/2022)
- +1 CC to M/s.K.JENITHA, Advocate
(SR-20954[F] dated 25/04/2022)

W.P.(MD) No.10457 of 2019
22.04.2022

SP/06/05/2022/4P/7C