



W.P.(MD)No.12458 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.12458 of 2018

and

W.M.P(MD)No.11317 of 2018

M.Muthulakshmi

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Petitioner

Vs.

1. The State of Tamil Nadu, represented by
The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort Saint George, Chennai – 600 009.
2. The Commissioner of Municipal Administration,
Chepauk, Chennai – 600 005.
3. The Director of Local Fund Audit,
Kuralagam Building, Chennai – 600 108.
4. The Assistant Director of Local Fund Audit,
Municipal Pension,
Kuralagam Building 4th Floor,
Chennai – 600 108.
5. The Commissioner,
Tenkasi Municipality,
Tenkasi – 627 881, Tirunelveli District.

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Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Mandamus*, to direct the respondents to treat the petitioner's husband Late Thiru.K.Mariappan, Revenue Assistant as an employee covered under the Tamil Nadu Pension Rules, 1978 prior to its amendment, dated 01.04.2003 and consequently disburses all the terminal benefits of the petitioner's husband Late Thiru.K.Mariappan, Revenue Assistant with interest and to grant Family Pension continuously to the petitioner in the light of the dictum laid down by this Court in the Judgment, dated 30.09.2015 made in W.A.(MD)No.1026 of 2015, within a stipulated time that may be fixed by this Court.

For Petitioner	: Mr.M.Saravanakumar
For R-1 to R-4	: Mr.R.Suresh Kumar, Additional Government Pleader
For R-5	: Mr.P.Athimoolapandian

ORDER

This Writ Petition has been filed for issuance of *Writ of Mandamus*, to direct the respondents to treat the petitioner's husband Late Thiru.K.Mariappan, Revenue Assistant as an employee covered under the Tamil Nadu Pension Rules, 1978 prior to its amendment, dated 01.04.2003 and also sought for a consequential direction to disburse all the terminal benefits of the petitioner's husband Late Thiru.K.Mariappan, Revenue Assistant with interest and to grant



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Family Pension continuously to the petitioner, in the light of the Judgment of this Court, dated 30.09.2015 made in W.A.(MD)No.1026 of 2015, within a stipulated time that may be fixed by this Court.

2. Heard Mr.M.Saravanakumar, learned counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader, appearing for the respondent Nos.1 to 4 and Mr.P.Athimoolapandian, learned counsel appearing for the 5th respondent.

3. Admittedly, this petitioner's husband was appointed on 17.11.1999, as last grade servant. The contention of the petitioner is that her husband late.K.Mariappan, was appointed under G.O.Ms.No.125, dated 27.05.1999 and therefore, the petitioner's husband is entitled to be considered for granting pension by taking his service rendered as NMR for a period from 1999 to 2006.

4. The contention of the 5th respondent is that, originally the petitioner's husband was appointed on 17.11.1999 and hence, the claim of the petitioner will not come under G.O.Ms.No.125, dated 27.05.1999. The said



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G.O.Ms.No.125 was passed to regularize the employees, who have put in more than 10 years of service in the Municipality, prior to 27.05.1999.

5. Since the petitioner's husband has not served 10 years of service, prior the year 1999, the G.O.Ms.No.125 is not applicable to him. Subsequently, the petitioner's husband was regularised as per G.O.Ms.No.21, Municipal Administration and Water Supply Department, dated 23.02.2006. Since the petitioner's regularization is after the date of 01.04.2003, as per decision of the Hon'ble Full Bench of this Court, the petitioner's husband is not entitled to take the service which was rendered prior to regularization. Therefore, the claim of the petitioner cannot be entertained.

6. Already, the similar issue was considered by Order of this Court, dated 30.09.2015 in W.A.(MD)No.1026 of 2015, for the same Municipal servants. Therefore, this Court is following the same, this Writ Petition is liable to be dismissed.



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7. Accordingly, this Writ Petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

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Internet : Yes

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To

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2. The Commissioner of Municipal Administration,
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3. The Director of Local Fund Audit,
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S.SRIMATHY, J

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**Order made in
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13.12.2022