



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:20.04.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD) Nos.23679, 23682, 23685, 23688,23689, 23692, 23693, 23694, and 23695 of 2019

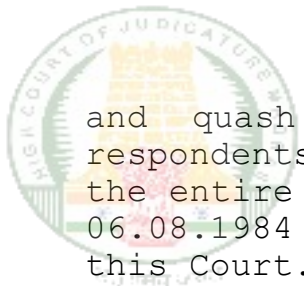
C.Sethuramalingam ... Petitioner in W.P(MD).23679 of 2019
A.Devaraj ... Petitioner in WP(MD). 23682/ 2019
T.Soundararaj ... Petitioner in WP(MD). 23685/ 2019
L.Subbiah ... Petitioner in WP(MD). 23688/ 2019
A.Murugan ... Petitioner in WP(MD). 23689/ 2019
C.Srinivasasagar, ... Petitioner in WP(MD). 23692/ 2019
P.Ramalingam, ... Petitioner in WP(MD). 23693/ 2019
S.Nambinarayanan, ... Petitioner in WP(MD). 23694/ 2019
N.Kasilingam ... Petitioner in WP(MD). 23695/ 2019

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Department of Revenue,
Fort St. George,
Chennai.

2.The Director,
Directorate of Land Survey and Settlement,
Chepauk,
Chennai. ... Respondents in all Petitions

Prayer in WP(MD). 23679/ 2019 : Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order made by the 2nd respondent in Na.Ka.No.P4/25210/2018 dated 06.09.2019



and quash the same as illegal and consequently, direct the respondents to refix the petitioner's pension by taking into account the entire service of the petitioner on temporary basis that is from 06.08.1984 to 07.05.1995 within the time that may be stipulated by this Court.

Prayer in WP(MD). 23682/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for records relating to the impugned order made by te 2nd respondent in Na.Ka.NO.P4/25210/2018 dated 6.9.2019 and quash the same as illegal and consequenlty direct the respondents to refix the petitioner's pension by taking into account the entire service of the petitioner on temporary basis that is from 27.2.1985 to 7.5.1995.

Prayer in WP(MD). 23685/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for records relating to the impugned order made by te 2nd respondent in Na.Ka.NO.P4/25210/2018 dated 6.9.2019 and quash the same as illegal and consequenlty direct the respondents to refix the petitioner's pension by taking into account the entire service of the petitioner on temporary basis that is from 08.10.1984 to 07.5.1995.

Prayer in WP(MD). 23688/ 2019 :

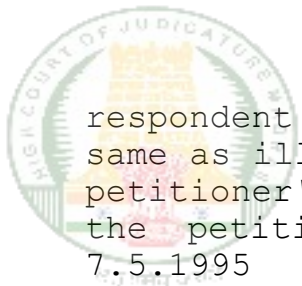
Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for records relating to the impugned order made by te 2nd respondent in Na.Ka.NO.P4/25210/2018 dated 6.9.2019 and quash the same as illegal and consequenlty direct the respondents to refix the petitioner's pension by taking into account the entire service of the petitioner on temporary basis that is from 15.3.1983 to 31.3.1992.

Prayer in WP(MD). 23689/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for records relating to the impugned order made by te 2nd respondent in Na.Ka.NO.P4/25210/2018 dated 6.9.2019 and quash the same as illegal and consequenlty direct the respondents to refix the petitioner's pension by taking into account the entire service of the petitioner on temporary basis that is from 13.2.1984 to 11.8.1996

Prayer in WP(MD). 23692/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for records relating to the impugned order made by te 2nd



respondent in Na.Ka.NO.P4/25210/2018 dated 6.9.2019 and quash the same as illegal and consequentely direct the respondents to refix the petitioner's pension by taking into account the entire service of the petitioner on temporary basis that is from 20.12.1984 to 7.5.1995

Prayer in WP(MD). 23693/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for records relating to the impugned order made by te 2nd respondent in Na.Ka.NO.P4/25210/2018 dated 6.9.2019 and quash the same as illegal and consequentely direct the respondents to refix the petitioner's pension by taking into account the entire service of the petitioner on temporary basis that is from 6.8.1984 to 7.5.1995

Prayer in WP(MD). 23694/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for records relating to the impugned order made by te 2nd respondent in Na.Ka.NO.P4/25210/2018 dated 6.9.2019 and quash the same as illegal and consequentely direct the respondents to refix the petitioner's pension by taking into account the entire service of the petitioner on temporary basis that is from 15.6.1983 to 26.3.1995

Prayer in WP(MD). 23695/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, Calling for records relating to the impugned order made by te 2nd respondent in Na.Ka.NO.P4/25210/2018 dated 6.9.2019 and quash the same as illegal and consequentely direct the respondents to refix the petitioner's pension by taking into account the entire service of the petitioner on temporary basis that is from 13.2.1984 to 11.8.1996

For Petitioner in	: Mrs.H.Jasima Yasmin
all W.Ps	for M/s.Ajmal Associates
For Respondents	: Mr.D.Sadiq Raja
in all W.Ps	Additional Government Pleader

COMMON ORDER

The order impugned rejecting the claim of the writ petitioners to count the entire temporary services as qualifying services for terminal and pensionary benefits, is under challenge in the present writ petitions.

2.The petitioners were appointed as Section Writer on daily wage basis and hereafter, they were brought under consolidated pay salary. The services of the petitioners were subsequently

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



regularized in the year 1995 and thereafter, they were promoted as Maintenance Firka Surveyor and upto the level of Deputy Inspector of Surveyor and retired from service on 31.10.2016.

3.These writ petitions have been filed after a lapse of about 3 years from the date of retirement. The order was passed pursuant to the direction issued by this Court to consider the representation in W.P(MD)Nos.15979, 15988, 15981, 15987, 15980, 15985, 15984, 15983, 15986 of 2018. Pursuant to the direction of this Court to consider the representation, the impugned order has been passed.

4.The learned counsel for the petitioners strenuously contended that the entire temporary services are to be reckoned for the purpose of granting of pensionary benefits to the writ petitioners. However, the impugned order has been passed not in consonance with the Rules and therefore, the order impugned is liable to be set aside.

5.The learned Additional Government Pleader appearing for the respondents disputed the said contentions by stating that the benefit of Rule 11(4) of Tamil Nadu Pension Rules, had already been extended to the writ petitioners that has been recorded in the order impugned itself 50% of service is to be taken into consideration for the purpose of reckoning the qualifying service under Rule 11(4) of Tamil Nadu Pension Rules. Such a benefit had already been extended to the writ petitioners and accordingly, terminal and pensionary benefits are settled. Counting of 100% of temporary service is not contemplated under Rule 11(4) of Tamil Nadu Pension Rules. The validity of Rule 11(4) of Tamil Nadu Pension Rules, has already been upheld by the Hon'ble Full Bench of this Court, in the case of the **Government of Tamil Nadu and others v. R.Kaliyamoorthy**, reported in **2019 6 CTC 705**. Pursuant to the principles laid down by the Hon'ble Full Bench of this Court, the benefit of 50% of services had already been extended to the writ petitioners and therefore, no further benefits are due to the petitioner.

6.This being the factum, this Court do not find any infirmity in respect of the order impugned and accordingly, these writ petitions are dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Secretary,
Government of Tamil Nadu,
Department of Revenue,
Fort St. George,
Chennai.

2.The Director,
Directorate of Land Survey and Settlement,
Chepauk,
Chennai.

+9 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-20042[F],
20041,20044,20043,20057,20056,20055,20054,20053 dated 21/04/2022)

+1 CC to M/s.SPL.GP (SR-20064[F] dated 21/04/2022)

W.P. (MD)Nos.23679, 23682, 23685, 23688,23689, 23692, 23693, 23694,
and 23695 of 2019
20.04.2022

SB(CO)
KB(06.05.2022) 5P 13C