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Writ Petition Nos.10735, 4769, 4770, 10738,  
10742, 10744, 10739, 10743, 10746 and 10748 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED :22.09.2023**

**CORAM :**

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**Writ Petition Nos.10735, 4769, 4770, 10738,  
10742, 10744, 10739, 10743, 10746 and 10748 of 2023  
and WMP.Nos.10683, 10686, 10684, 10685 and 10687 of 2023**

**W.P.No.10735 of 2023**

P.Gayathiri,  
D/o.N.Palanisamy

... Petitioner

-Vs-

1. The Secretary to Government,  
Health and Family Department,  
Secretariat, Chennai – 600 009.
  2. The Secretary to Government,  
Finance (Pension) Department,  
Secretariat, Chennai – 600 009.
  3. The Director of Medical Education,  
Kilpauk, Chennai - 600 010.
  4. The Dean, Coimbatore Medical College and Hospital,  
Coimbatore Medical College and Hospital,  
Coimbatore – 641 018.
- ... Respondents

**Prayer :** Writ Petition under Article 226 of the Constitution of India  
praying for the issuance of a Writ of Certiorarified Mandamus, calling



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for the records of the 3<sup>rd</sup> respondent in Ref.No.90512/E5/2/2014-36 dated 25.07.2022 and quash the same and consequently direct the respondents to regularize the petitioner's appointment as regular appointment under the regular time scale of pay with effect from the petitioner's initial appointment i.e., from 21.06.2002 and grant all attendant benefits including pension under Old Pension Scheme i.e., under the Tamil Nadu Pension Rules, 1978.

|                                   |                                                                     |
|-----------------------------------|---------------------------------------------------------------------|
| For Petitioner<br>[in all W.Ps.]  | : Mr.L.G.Sahadevan<br>for Mr.A.Ilayaperumal                         |
| For Respondents<br>[in all W.Ps.] | : Mr.P.Balathandayutham<br>Special Government Pleader<br>[R1 to R4] |

### **COMMON ORDER**

Since the issue raised in all these writ petitions is one and the same, with the consent of learned counsel appearing on either side these writ petitions are heard together and are being disposed of by this common order.

2. These writ petitions have been filed challenging the impugned order dated 25.07.2022 rejecting the claim of the petitioners to regularize the petitioners' appointment from their date of initial appointments on



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consolidated pay or contract basis as the case may be for the purpose of old pension scheme.

3. The grievance of the writ petitioners is that as per G.O.(D).No.1577, Health and Family Welfare (C.2) Department, dated 07.11.2001, the Government has decided to fill up the 1508 posts of paramedical personnel/technical personnel and the petitioners were appointed under 10(a)(i) basis for consolidated pay of Rs.2,500/- per month. Hence, it is the contention of the petitioners that their date of initial appointment shall be taken into account for the purpose of old pension scheme, for which the petitioners approached the respondents by making representations, which have been rejected through the impugned order. Challenging the same, the present writ petitions have been filed.

4. The third respondent has filed the counter affidavit, wherein it has been stated that the petitioners were appointed on consolidated pay. As per the Full Bench judgment of this Court in the case of ***The Government of Tamil Nadu Vs.R.Kaliyamoorthy*** in ***W.A.No.158 of 2016 & etc., batch*** dated ***03.12.2019***, those who were appointed on daily



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wage basis or on consolidated pay and their services were regularized before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits. However, in these cases, the petitioners were regularized after 01.04.2003, hence, they are not entitled for the old pension scheme.

5. I have heard the submissions of the learned counsel appearing on either side and I have perused the materials placed before this Court.

6. The issue raised in these writ petitions is no more *res-integra* as it has been conclusively decided by a Full Bench of this Court in ***R.Kaliyamoorthy's*** case (cited *supra*), wherein the Hon'ble Full Bench has ultimately held as follows:

*“45. 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*



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*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 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.”*

7. In view of the above, the petitioners were admittedly appointed on consolidated pay and their services were regularized after the cut off date i.e., 01.04.2003. Therefore, the petitioners cannot claim to count the



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past service rendered by them on consolidated pay for the purpose of pensionable service.

8. Considering the dictum of the Hon'ble Full Bench of this Court, this Court is inclined to dismiss these writ petitions and accordingly, these writ petitions are dismissed. No costs. Connected miscellaneous petitions are closed.

**22.09.2023**

Index : Yes/No  
Speaking order: Yes/No  
Neutral Citation: Yes/No  
mp

To

1. The Secretary to Government,  
Health and Family Department,  
Secretariat, Chennai – 600 009.
2. The Secretary to Government,  
Finance (Pension) Department,  
Secretariat, Chennai – 600 009.
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**N.SATHISH KUMAR, J.**

mp

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