



Cont.P.No.1857 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2023

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

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- 1.Chidhambaranathan
- 2.Chinnayan
- 3.S.Isakki Muthu
- 4.Arumugam
- 5.Krishna Kumar
- 6.Rajendran
- 7.John Selvaraj
- 8.Davit Devanasan

...Petitioners

-Vs-

- 1.Dr.Anandha Kumar, IAS,
Secretary,
Differently Abled Welfare Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai – 600 009.
- 2.Mrs.Susidhara Lasus,
The Principal Secretary,
The State Commissioner for Differently Abled,
K.K.Nagar, Chennai – 600 078.

...Respondents



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Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act to punish the respondents for their willful disobedience in violating the order passed by this Court in W.P.No.33880 of 2014 dated 21.11.2017.

For Petitioners : Ms.U.Parvatha

For Respondents : Mr.T.Arunkumar
Additional Government Pleader

ORDER

The present contempt petition is filed to punish the respondents for their willful disobedience of the order of this Court dated 21.11.2017 passed in W.P.No.33880 of 2014.

2.This Court passed the following order:

“12.Accordingly, the respondents are directed to reconsider the case of the writ petitioners, in the light of the observations made in this order, for the purpose of granting the relief of counting the service of 50% of the services rendered on temporary basis and pass appropriate



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orders after verifying the service records and based on Rule 11 of the Tamil Nadu Pension Rules, 1978 and communicate the decision taken to the writ petitioners as early as possible, preferably within a period of four months from the date of receipt of a copy of this order.

13.In the event of counting 50% of the past services, the GPF Account has to be opened after closing the CPF Account, opened on account of the cut off date of 01.04.2003, since the cut off date was already quashed by this Court and there was no appeal against the order.

14.Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs.”

3.The Additional Government Pleader appearing on behalf of the respondents brought to the notice of this Court that the petitioner was not appointed under Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules in a sanctioned post. The petitioner was appointed as Part-time employee on consolidated pay in a non-sanctioned post. Therefore, the period of services rendered in a non-sanctioned post on consolidated pay is not covered under the Amended Rule 11(4) of Tamil Nadu Pension Rules. The learned Additional Government Pleader referred the directions issued



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by the Full Bench of this Court in a batch of writ appeals in W.A.No.158 of 2016, etc. dated 03.12.2019, wherein the Full Bench clarified that 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.

4.Though the petitioners were appointed on consolidated pay prior to 01.04.2003 they were regularly appointed and their services were regularized in the year 2005 after the cut off date more so on implementation of the new pension scheme i.e., Contributory Pension Scheme. That being the factum, the directions issued by this Court has not been violated.

5.That apart, this Court passed orders on 21.11.2017 and the Full Bench of this Court settled the issues by delivering the judgment on 03.12.2019 and the petitioners filed the present contempt petition after a lapse of about four years from the date of Full Bench judgment in the year



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2023. Rule 11(4) of the Tamil Nadu Pension Rules contemplates that 'Half of the service rendered under the State Government in non-provincialised service, consolidated pay, honorarium or daily wages basis on or after 1st January 1961 in respect of Government employees absorbed in regular service before 1st April shall be counted for retirement benefits along with regular service subject to the conditions stipulated therein. Rule 11(4)(i) stipulates that service rendered in non-provincialised service, consolidated pay, honorarium or daily wages basis shall be in a job involving whole time employment.

6.In the present case, the learned Additional Government Pleader made a submission that the petitioners were appointed as part-time employees with consolidated pay in between the years 1993 to 1996. The part-time employees are not entitled for availing the benefit of counting of half of the service as contemplated under Rule 11(4) of the Tamil Nadu Pension Rules.



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S.M.SUBRAMANIAM, J.

cse

7.Thus the petitioners are not entitled and the respondents have not violated the orders passed by this Court. In view of the facts and circumstances, the contempt petition stands dismissed. No costs.

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Index:Yes/No
Internet:Yes/No
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To

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Secretariat, Fort St. George,
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2.Mrs.Susidhara Lasus,
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