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Writ Appeal Nos.2263, 2315 and 2318 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.08.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal Nos.2263, 2315 and 2318 of 2018
and C.M.P.Nos.18065, 18476 and 18379 of 2018**

1. The Government of Tamil Nadu rep. By
The Secretary to Government,
Municipal Administration and Water Supplies Department,
Fort St.George,
Chennai – 600 009.
 2. The Commissioner of Municipal Administration,
Chepauk, Chennai – 600 005.
 3. The Commissioner,
Hosur Municipality,
Krishnagiri District.
- ... Appellant in all these W.As.

Vs

K.Sekar	.. Respondent in W.A.No.2263/2018
V.Sreenivasa	.. Respondent in W.A.No.2315/2018
P.Gopal	.. Respondent in W.A.No.2318/2018

COMMON PRAYER: Writ Appeals filed under Clause 15 of Letters Patent Act, to allow the above appeals by setting aside the common order dated 18.09.2017 and 28.08.2017 made in W.P.Nos.5821 of 2016, 7297 of 2016 and W.P.No.5429 of 2016 respectively.



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For Appellant : Mr.R.Kumaravel
[in all W.As.] Addl. Government Pleader [A1 & A2]

Mr.R.S.Selvam
for Ms.A.Sri Jayanthi [R3]

For Respondent : Mr.A.R.Suresh
[in all W.As.] for Mr.V.Tirupathi

COMMON JUDGMENT

(Judgment of the Court was delivered by K.KUMARESH BABU,J.)

These intra-court appeals have been filed challenging the order passed by the Writ Court, wherein directions were given to the appellants herein to reconsider the case of the respondents herein and to count their 50% of past service rendered in the respective posts for the purpose of pension.

2. Admittedly, the orders impugned in these writ appeals were passed in the year 2017, it is to be noted that subsequently, a Full Bench of this Court had concluded the issue and it would be relevant to extract the portion of the order of the Full Bench, which reads thus:

“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 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



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pension.”

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3. Admittedly, in these cases all the private respondents services were regularized subsequent to 01.04.2003. Hence, in view of the undisputed fact that the services have been regularized after 01.04.2003, as per the Full Bench Judgment of this Court, they would not be entitled to count the 50% of their past service. Therefore, the impugned orders in these writ appeals would have to be set aside and accordingly, they are set aside and the writ appeals are allowed. No costs. Connected miscellaneous petitions are closed.

(R.S.K.,J.)

(K.B., J.)

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Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation:Yes/No

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