



WEB COPY



W.A.No.2709 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.04.2023**

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

W.A.No.2709 of 2018

The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai - 600 002.

... Appellant

versus

1.C.Jayakumar,
Night Watchman,
Zone XII
Corporation of Chennai,
Alandur,
Chennai.

2.The Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai - 600 009.

3.The Director of Municipal Administration,
Chepauk,
Chennai - 600 005.

4.The Director of Local Fund Audit,
Integrated Complex for Finance Department,
Animal Husbandry Hospital Campus,
Nandanam,
Chennai - 600 035.

... Respondents



W.A.No.2709 of 2018

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, pleased to allow the writ appeal by setting aside the order made in W.P.No.24381 of 2017 dated 12.09.2017.

For Appellants : Mr.S.Gopinathan

For Respondents : Mr.R.Prem Narayan for R1
Mr.P.Ananda Kumar,
Government Advocate for R2 to R4

JUDGMENT

(made by D.KRISHNAKUMAR, J.)

The learned Government Advocate, appearing for the appellant, has brought to the notice of this Court a decision of the Full Bench of this Court, in **W.A.Nos. 158, 314, etc., of 2019, The Government of Tamil Nadu, represented by Secretary to Government Vs R. Kaliyamoorthy , reported in (2019) 6 C.T.C. 705 (FB)**, wherein at paragraph No.46 of the Judgment, the Full Bench had answered the reference in the following terms:

"46. 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



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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 services were regularised before 01.04.2003, half of 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.

3. The aforesaid Full Bench judgment squarely applies to the facts of the present case and accordingly, the first respondent is not entitled to count half of his past service for the purpose of determination of qualifying service for pension, since his services were regularized only after 01.04.2003.



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4. Therefore, in the light of Full Bench judgment cited supra, as the first respondent/writ petitioner is not entitled to any relief, the order passed by the learned Single Judge is set aside. Consequently the Writ Appeal is allowed. No costs. C.M.P.No. 22231 of 2018 is closed.

**(D.K.K., J.) (K.G.T., J.)
28.04.2023**

Index: Yes/no
mrn

To

- 1.The Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai - 600 009.
- 2.The Director of Municipal Administration,
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Chennai - 600 005.
- 3.The Director of Local Fund Audit,
Integrated Complex for Finance Department,
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