



W.A.No.1587 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE K.KUMARESH BABU

W.A.1587 of 2019 and
C.M.P.No.10855 of 2019

The Commissioner,
Sirgazhi Municipality,
Sirgazhi.

... Appellant

Vs.

1.The Secretary to Government of Tamil Nadu,
Finance Department,
Fort St. George, Chennai – 600 009.

2.The Accountant General,
No.361, Anna Salai,
Chennai – 600 015.

3.The Assistant Director (Pension),
Municipal Local Fund Audit Directorate,
Kuralagam, 4th Floor,
Chennai – 600 108.

4.The Commissioner of Municipal Administration
and Water Supply Department,
Chepauk, Chennai – 600 005.

5.C.Arumugam

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying



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to set aside the order dated 06.06.2018 in W.P.No.13585 of 2015.

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For Appellant : Mr.C.Elamurugan

For Respondents : K.V.Sajeev Kumar
Special Government Pleader
For R1, R3 and R4

: No appearance for R2 and R5

JUDGMENT

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

This intra-Court appeal has been filed as against the order of the learned Single Judge dated 06.06.2018 in W.P.No.13585 of 2015, where directions were issued to count the service of the petitioner/5th respondent herein between 1972 and 1980 where he had worked as a Village Headmen and take 50% of the said service in calculating the pensionary benefits.

2. Subsequent to the order impugned in this writ appeal, a Full Bench of this Court in ***Government of Tamil Nadu and others Vs. R.Kaliyamoorthy*** reported in ***2019 (6) CTC 705***, had concluded the aforesaid issue wherein in paragraph 45, the following directions have



been issued.

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“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 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.



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(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 facts of the present case is squarely covered under clause (ii) of paragraph 45 of the Full Bench judgment. Therefore, we do not find any infirmity in the order passed by the learned Single Judge and accordingly the writ appeal is dismissed. However, there shall be no order as to costs. Connected C.M.P. is also dismissed.

(R.S.K., J.) (K.B., J.)

16.08.2023

Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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To

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R. SURESH KUMAR, J.
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