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W.P.Nos.1661 of 2015 and 19076 and 35462 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and**

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.Nos.1661 of 2015 and 19076 and 35462 of 2023

and

W.M.P.Nos.18326, 18327, 35437 and 35439 of 2023

W.P.No.1661 of 2015

1. P.Jayakumari
2. P.Mabel Christy
3. Y.R.Geetha
4. K.Chitra
5. G.Thilagavathy
6. A.Selvaraj
7. B.Selvaraj
8. M.Purushothaman
9. C.D.Sasikala

... Petitioners

Vs.

1. The Government of Tamil Nadu,
Rep by its Secretary to Government,
Home (Courts-II) Department,
Fort St. George, Chennai – 600 009.
2. The Registrar General,
High Court of Judicature,
Madras – 600 104.
3. The Hon'ble Principal Judge,



City Civil Court, High Court Buildings,
Madras – 600 104.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents, more particularly the proceedings of the 3rd respondent made in Dis.No.15412/2014/E2, dated 18.12.2014 and quash the same as null and void, illegal and invalid, and consequently directing the 3rd respondent to regularize the services of the petitioners from their respective dates of appointment as Steno Typists & Typists and accord promotions taking into account the respective dates of entry as Steno Typists & Typists with all attendant benefits besides counting the services of petitioners from their respective initial dates of entry into services for the purpose of earning pension under the old Pension Scheme applying the Law laid down by the Division Bench of this Hon'ble Court, reported in **2014 (2) CTC 777** apart from re-fixing the seniority of the 1st petitioner in the category of 'Reader' after re-appointment besides settling her monetary and service benefits on part with her juniors.

For Petitioners : M/s.V.S.Jagadeesan

For R1 : Mr.Haja Nazirudeen,
Additional Advocate General – I
assisted by Mrs.V.Yamuna Devi,
Special Government Pleader &
Mr.P.Hari Babu,
Government Advocate

For R2 & R3 : Mr.V.Vijay Shankar



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W.P.No.19076 of 2023

1. M.Prabha
2. B.Hema
3. A.Joice Mary
4. K.Arulselvan
5. S.Subbulakshmi
6. K.M.Subanithi
7. S.Unnatharaj
8. S.Gowri
9. S.Santhi
10. K.Valarmathi
11. G.Mahalakshmi
12. S.Ezhilarasu
13. R.Vasanthi
14. N.Saravanan
15. K.Vaijayanthimala
16. E.Govindarajan
17. M.Kavitha
18. G.Tamilvanan
19. S.Jeyaselvan
20. V.B.Babu
21. K.Vasanthi
22. R.Uma Maheshwari
23. A.Habimunisha
24. A.Chitra
25. A.Ravichandramohan
26. R.Bhuvaneshwari
27. V.Prema
28. N.Saraswathi
29. K.Chinnadhurkkaiyan
30. N.Renuka
31. Saravana Venkatta Varadhan
32. C.Lathakumari



33. M.Saila
34. J.Chandrakumari
35. M.Nirmala
36. P.Manimekalai
37. M.Eswari
38. G.Jayathiripurasundari
39. D.Ariyal
40. K.Sekar
41. K.Suguna
42. K.Vijayalakshmi
43. R.Tamilmalar
44. A.Mary Jacintha Margaret
45. R.Vembu
46. S.Subashini
47. S.Adhilakshmi
48. P.Chitra
49. A.Loganayaki

... Petitioners

Vs.

1. The High Court, Madras,
represented by the Registrar General,
High Court Complex,
Chennai – 600 104.
2. The State of Tamil Nadu,
represented by its Secretary to Government,
Personal and Administrative Department,
Secretariat, Chennai – 600 009.
3. The State of Tamil Nadu,
represented by its Secretary to Government,
Finance (PGC) Department,
Secretariat, Chennai – 600 009.
4. The Principal Accountant General (Accounts and Establishment),
361, Anna Salai, Teynampet,



Chennai – 600 018.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 23.03.2023 made in PAG (A&E)/FM.I/VI/ Admin./2022-2023/297/55964 issued by the 4th respondent, quash the same and consequently direct the respondents to permit us to continue our contribution to the General Provident Fund account to avail the pensionary benefits after our retirement as per ROC.No.588-A/2006/C3 dated 29.03.2006 issued by the 1st respondent and pass such further or other suitable orders as this honble court deems fit and proper in the circumstances of the case and thus render justice.

For Petitioners	: Mr.N.Manoharan
For R1	: Mr.M.Santhanaraman
For R2 & R3	: Mr.Haja Nazirudeen, Additional Advocate General – I assisted by Mrs.V.Yamuna Devi, Special Government Pleader & Mr.P.Hari Babu, Government Advocate
For R4	: Mr.V.Vijay Shankar

W.P.No.35462 of 2023

R.Ramachandran

... Petitioner

Vs.



1. The High Court, Madras,
represented by the Registrar General,
High Court Complex,
Chennai – 600 104.
 2. The State of Tamil Nadu,
represented by its Secretary to Government,
Personal and Administrative Department,
Secretariat, Chennai – 600 009.
 3. The State of Tamil Nadu,
represented by its Secretary to Government,
Finance (PGC) Department,
Secretariat, Chennai – 600 009.
 4. The Principal Accountant General (Accounts and Establishment),
361, Anna Salai, Teynampet,
Chennai – 600 018.
- ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 23.03.2023 made in PAG (A&E)/FM.I/VI/ Admin./2022-2023/297/55964 issued by the 4th respondent, quash the same and consequently direct the respondents to permit us to continue petitioner's contribution to the General Provident Fund account to avail the pensionary benefits after petitioner's retirement in accordance with the proceedings dated 09.12.2004 (GPF 40/I/2004-05/139) issued by the 4th respondent and pass such further or other suitable orders as this honble court deems fit and proper in the circumstances of the case and thus render justice.



W.P.Nos.1661 of 2015 and 19076 and 35462 of 2

For Petitioner : Mr.N.Manoharan
For R1 & R5 : Mr.M.Santhanaraman
For R2 & R3 : Mr.Haja Nazirudeen,
Additional Advocate General – I
assisted by Mr.P.Hari Babu,
Government Advocate &
Mrs.V.Yamuna Devi,
Special Government Pleader
For R4 : Mr.V.Vijay Shankar

COMMON ORDER

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

The lis on hand has been instituted questioning the validity of the order dated 23.03.2023, rejecting the claim of the writ petitioners for extending the benefit of the Old Pension Scheme under the provisions of the Tamil Nadu Pension Rules, 1978.

2. Admittedly, all the writ petitioners were appointed temporarily under Rule 10(a)(i) of the Tamil Nadu State and Subordinate Services Rules in between the year 1993 and 2003. The details regarding the date of temporary appointments and regular appointments are as under:-

<i>Sl.No</i>	<i>Name of the Petitioner</i>	<i>Date of appointment under Rule 10(a)(i)</i>	<i>Reappointment as per order in ROC.588-A</i>
1.	M.Praba	31.08.1998 &	17.04.2006



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		23.08.2001	
2.	B.Hema	25.01.1999 & 23.08.2001	17.04.2006
3.	A.Joice Mary	02.08.2000	17.04.2006
4.	K.Arulselvan	15.05.2002	06.04.2006
5.	S.Subbulakshmi	03.10.2002	06.04.2006
6.	K.M.Subanithi	15.02.2002	19.10.2006
7.	S.Unnatharaj	28.03.2002	19.10.2006
8.	S.Gowri	15.02.2002	19.10.2006
9.	S.Santhi	08.02.2002	19.10.2006
10.	K.Valarmathi	04.05.1994	19.04.2006
11.	G.Mahalakshmi	28.06.2002	20.12.2007
12.	S.Ezhilarasu	02.12.2002	13.04.2006
13.	S.Vasanthi	21.01.1998	13.04.2006
14.	N.Saravanan	06.06.2002	13.04.2006
15.	K.Vaijayanthimala	02.12.2002	13.04.2006
16.	E.Govindarajan	06.06.2002	13.04.2006
17.	M.Kavitha	06.06.2002	13.04.2006
18.	G.Tamilvanan	26.03.2002	13.04.2006
19.	S.Jayaseelan	26.03.2002	13.04.2006
20.	V.B.Babu	26.03.2002	13.04.2006
21.	K.Vasanthi	06.06.2002	13.04.2006
22.	R.Umamaheswari	01.12.1998	13.04.2006
23.	A.Habimunisha	05.06.2002	13.04.2006
24.	A.Chitra	12.04.2002	21.04.2006
25.	A.Ravichandramohan	12.04.2002	21.04.2006
26.	R.Bhuvaneshwari	24.06.2002	21.04.2006
27.	V.Prema	24.03.2002	21.04.2006



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28.	N.Saraswathi	05.04.2002	17.10.2006
29.	K.Chinnadhurgaiyan	05.04.2002	17.10.2006
30.	N.Renuka	18.01.1996	02.09.2006
31.	Saravana Venkata Varadan	07.06.2002	02.09.2006
32.	C.Lathakumari	07.05.1993	02.09.2006
33.	M.Saila	16.03.1998	17.04.2006
34.	J.Chandrakumari	28.01.1993	02.09.2006
35.	M.Nirmala	01.04.2002	20.04.2006
36.	P.Manimekalai	03.05.2002	06.04.2006
37.	M.Eswari	24.06.2002	24.07.2006
38.	G.Jayathiriburasundari	28.06.2002	18.04.2006
39.	D.Ariyal	24.04.2002	14.12.2006
40.	K.Sekar	11.01.1993	03.04.2006
41.	K.Suguna	24.04.1992	03.04.2006
42.	K.Vijayalakshmi	12.12.2002	03.07.2006
43.	R.Tamilmalar	02.08.2002	03.07.2006
44.	A.Mary Jacintha Margret	01.04.2002	03.07.2006
45.	R.Vembu	07.03.2002	22.03.2007
46.	S.Subashini	16.04.2002	22.03.2007
47.	A.Adhilakshmi	28.03.2002	22.03.2007
48.	P.Chitra	11.07.2002	19.04.2006
49.	A.Loganayaki (retired)	28.03.2002	22.03.2007

3. All the writ petitioners were regularly appointed into service from the year 2006 onwards. In respect of some of the temporary 10(a)(i)



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employees, GPF accounts were opened erroneously by the District Administration, contrary to the Rules in force. Subsequently, the Accountant General of Tamil Nadu directed those GPF accounts to be closed on account of implementation of New Pension Policy with effect from 01.04.2003. The issue mainly raised is that whether these 10(a)(i) appointed employees are entitled to get pensionary benefits under the provisions of the Tamil Nadu Pension Rules, 1978 or under the New Pension Scheme, i.e., Contributory Pension Scheme.

4. Mr.Manoharan, learned counsel appearing on behalf of the writ petitioners mainly contend that the services of the writ petitioners were subsequently regularized and they were brought under the regular establishment. Even when these writ petitioners were serving as 10(a)(i) temporary employees, GPF accounts were opened and contributions were deducted.

5. As per the judgment of the Full Bench of this Court in the case of ***“Government of Tamil Nadu -vs- R.Kaliyamoorthy”*** reported in **(2019) 6 CTC 705**, services of these temporary employees were subsequently



regularized and therefore, they are entitled to avail the benefit under the provisions of the Tamil Nadu Pension Rules, 1978. These temporary employees cannot be considered as new entrant and the temporary services are to be counted to the extent of 50%, as per Rule 11(4) of the Tamil Nadu Pension Rules, 1978.

6. Mr. Manoharan would rely on the judgment of the Hon'ble Division Bench of this Court vide order dated 07.03.2006 in W.P.Nos.16321, 17360, 18409 of 2001, which was filed by the writ petitioners herein and the Hon'ble Division Bench directed to consider the cases of these 10(a)(i) temporary employees for regularization and till such time, they may be allowed to continue on temporary basis. Necessary steps were directed to be taken to provide employment to these writ petitioners in any one of the posts of Reader/ Examiner/ Copiest. Pertinently, these posts are not falling under the purview of the Tamil Nadu Public Service Commission. However, the writ petitioners were appointed under Rule 10(a)(i) on temporary basis.

7. Mr.V.Vijay Shankar, learned counsel appearing on behalf of the respondents would oppose the said contention by stating that all the writ



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petitioners were appointed on temporary basis and there were break in services. In some cases, the break in service was about five years and in some cases, it was few months. After termination of these temporary services, these employees have submitted a fresh application seeking appointment and again they were re-appointed on regular basis.

8. Mr.V.Vijay Shankar would further submit that the policy of New Pension Scheme is intact. Employees, who were recruited/ appointed on or after 01.04.2003 are entitled for the benefit of the Contributory Pension Scheme. The temporary employees, whose services were regularized prior to 01.04.2003 alone is entitled to avail the benefit of the Old Pension Scheme under the Tamil Nadu Pension Rules, 1978. In the present case, all the writ petitioners were admittedly appointed on regular basis only after 01.04.2003. Therefore, they are not entitled for the benefit of Old Pension Scheme. Thus, the decision of the Accountant General of Tamil Nadu is in consonance with the policy of the Government in the matter of application of Old Pension Scheme and the New Pension Scheme.

9. Mr.Manoharan has further referred certain clarificatory letters



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issued by the Accountant General of Tamil Nadu. Those clarificatory letters would indicate that the GPF accounts opened in respect of 10(a)(i) temporary employees are to be continued. Relying on the said clarificatory letters, Mr.Manoharan would submit that the respondents have accepted the temporary employees as permanent employees by opening GPF accounts. Therefore, they cannot turn around and pass the impugned order, rejecting the claim of the writ petitioners to confirm the benefits under the Tamil Nadu Pension Rules, 1978. Mr.Manoharan further referred the Judgment of the Hon'ble Supreme Court in the case of ***“All Manipur Pensioners Association -vs- State of Manipur”*** reported in **(2020) 14 SCC 625**. However, the facts in that case decided by the Hon'ble Supreme Court is distinguishable and cannot be directly applied, since in the present case, the writ petitioners were admittedly appointed into regular service after 01.04.2003.

10. Let us consider the reference made before the Full Bench in the case of ***R.Kaliyamoorthy*** reported in **(2019) 6 CTC 705** cited supra. The reference reads as under:-

“ 1. This Full Bench was constituted by the



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Honourable The Chief Justice pursuant to the order dated 29.08.2018 passed by the Division Bench of this Court in W.A. No. 1218 of 2018 etc., batch to refer the below mentioned issue for an authoritative pronouncement:-

"In view of the provisions of the Tamil Nadu Pension Rules, as amended, if a government servant is regularised in service after <http://www.judis.nic.in> 01.04.2003 whether such a person will be entitled to count 50% of the past service rendered prior to regularization for the purpose of computing his pension under the Old Pension Scheme."

2. For the sake of clarity, we are paraphrasing the above reference as follows:-

"Whether half of the past service



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rendered by Government servants whose appointments were regularised after 01.04.2003 can be counted for the purpose of grant of pension under the provisions of the Tamil Nadu Pension Rules, 1978 in the light of the amendments to the aforesaid rules vide G.O. Ms. No.259, Finance (Pension) Department dated 06.08.2003 and G.O. Ms. No.41, Finance (Pension) Department dated 08.02.2010."

11. The reference has been answered by the Full Bench in Paragraph No.45, which reads as under:-

“ 45. In the light of the above, we answer the reference as follows:-



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- 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

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."

12. Therefore, the Full Bench Judgment is to be read in the context of the reference made and not beyond that. Accordingly, those who are freshly appointed on or after 01.04.2003 are not entitled to pension, in view of proviso Rule 2 of the Tamil Nadu Pension Rules, 1978.



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13. Those Government Servants / employees appointed prior to the 01.04.2003 alone are entitled for the benefit of the Tamil Nadu Pension Rules, 1978.

14. “Appointed to a service” is defined under Section 3(b) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, which reads as under:-

*“ **appointed to a service** means when a person appointed in accordance with this Act or in accordance with the rules applicable at the time, as the case may be, discharges, for the first time the duties of the post borne on the cadre of such service or commences the probation, instruction or training prescribed for members thereof.”*

15. Section 2(1) of the erstwhile Tamil Nadu State and Subordinate Service Rules reads as under:

*“ **appointed to a service** means a person is said to be appointed to a service when in accordance with these rules or in accordance with the rules applicable at the time, as the case may be, discharges, for the first time the duties of a post borne on the cadre of such service or commences the probation, instruction or training prescribed for members thereof.”*



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under:-

16. Rule 10 speaks about temporary appointments and reads as

“10. Temporary appointments:— a(i) (1)
where it is necessary in the public interest owing to an emergency which has arisen to fill immediately a vacancy in a post borne on the cadre of a service, class or category and there would be undue delay in making such appointment in accordance with these rules and the Special Rules, the appointing authority may temporarily appoint a person, who possesses the qualifications prescribed for the post otherwise than in accordance with the said rules.

*#(Added Vide G.O.Ms.No.21, P&AR (S) Dept.,
23-1-96 w.e.f.23-1-96)*

Provided that no appointment @ by direct recruitment under this clause shall be made of any person other than the one sponsored by the Tamil Nadu Public Service Commission from its regular or reserve list of successful candidates to any of the posts with in the purview of the Tamil Nadu Public Service Commission.

17. Corresponding Rule has been incorporated under Rule 17 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and the said Rules 17 reads as under:-



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“ 17. (1) Where it is necessary in the public interest owing to an emergency which has arisen to fill immediately a vacancy in a post borne on the cadre of a service, class or category and there would be undue delay in making such appointment in accordance with the provisions of this Act and the special rules, the appointing authority may temporarily appoint a person, who possesses the qualifications prescribed for the post otherwise than in accordance with this Act and the said rules: Provided that no appointment by direct recruitment under this section shall be made of any person other than the one sponsored by the Commission from its regular or reserve list of successful candidates to any of the posts within the purview of the Commission: Provided further that appointment by direct recruitment under this section in respect of posts within the purview of the Commission shall be made, only where new posts with new qualifications are created temporarily and where the Commission does not have a regular or reserve list of successful candidates for sponsoring.

18. Cogent reading of the provisions of the erstwhile Tamil Nadu State and Subordinate Services Rules and the provisions of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 would unambiguously stipulate that the temporary appointments are made only during administrative exigencies and cannot be construed as regular appointment.



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19. Section 17(v) of the Act 2016, which is corresponding to Rule 10(a)(v) of the Erstwhile Tamil Nadu State and Subordinate Service Rules stipulates that *“a person appointed under clause (i), (ii) or (iv) shall not be regarded as a probationer in such service, class or category or be entitled by reason only of such appointment to any preferential claim to future appointment to such service, class or category. The services of a person appointed under clause (i), (ii) or (iv) shall be liable to be terminated by the appointing authority at any time without notice and without any reason, being assigned”*.

20. Therefore, these temporary employees are liable to be terminated and their services are not protected under the service conditions, as applicable to the regular employees. Therefore, the temporary employees are not extended with the service benefits, as applicable to the regular appointees, appointed in accordance with the Service Rules in force.

21. Temporary appointments are made on account of administrative exigencies and these temporary employees and their service are liable to be



terminated at any time without assigning reason. They would not acquire any service right from and out of such temporary services except the benefits granted under the Rules.

22. The Government order issued in G.O (Ms) No.259, Finance (Pension) Department dated 06.08.2003 as follows:-

“ 4. The following notification will be published in the Tamil Nadu Government Gazette

NOTIFICATION

In the exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Tamil Nadu hereby makes the following amendment to the Tamil Nadu Pension Rules, 1978.

2. The amendment hereby made shall be deemed to have come into force on the 1st April of 2003.

AMENDMENT

In the said Rules, in Chapter I, the following proviso shall be added to Rule 2:-

“Provided that these rules shall not apply to Government Servants appointed on or after the 1st April 2003, to services and posts in connection with the affairs



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of the State which are borne on pensionable establishments, whether temporary or permanent”.”

23. Holistic reading of the Erstwhile Tamil Nadu State and Subordinate Service Rules and the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and the definition of appointment into service would amplify that an employee regularly appointed in accordance with the Rules into a service before 01.04.2003 are alone entitled to avail the benefit of the Old Pension Scheme under the Tamil Nadu Pension Rules, 1978. The temporary employees appointed prior to 01.04.2003 either under the Erstwhile Rule 10(a)(i) of the Tamil Nadu State and Subordinate Rules are not entitled to avail the benefit of the Old Pension Scheme under the provisions of the Tamil Nadu Pension Rules, 1978.

24. Mr.Manoharan would drew the attention of this Court with reference to the High Court Circular issued in ROC.No.588-A/2006/C3 dated 29.03.2006, wherein a direction was issued to the appointing authorities to incorporate specifically in the appointment order that the appointment is subject to the conditions that their appointment to the posts



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in the first appointment in Tamil Nadu Judicial Ministerial Services and any temporary service rendered by them in any post including the post of Steno Typist / Steno-Typist / Junior Assistant will not be considered for the purpose of service benefits with pay protection, increment, seniority and promotion (except pensionary benefits). Such common circular issued in the absence of any interpretation regarding the applicability of Old Pension Scheme and New Pension Scheme cannot be relied upon for the purpose of seeking the benefit under the Old Pension Scheme, i.e., Tamil Nadu Pension Rules, 1978.

25. Mr.Vijay Shankar relied on the Judgment of the Hon'ble Division Bench of this Court in the case of “***K.Mythili -vs- State, represented by the Secretary to Government***” in W.P.No.37448 of 2016 dated 13.03.2018, wherein the Hon'ble Division Bench of this Court considered the very same circular issued by the High Court and interpreted that merely stating that the temporary employees are not entitled for other service benefits except for pensionary benefits would not confer any right on them to claim the benefits of Tamil Nadu Pension Rules, 1978. The said interpretation offered by the Hon'ble Division Bench of this Court was further adopted by another



Division Bench of this Court in the case of “***M.Thangam -vs- the State of Tamil Nadu, Secretary to Government***” in W.P.No.27765 of 2019 dated 09.01.2020.

26. We would further state that the phrase “except pensionery benefits” does not mean that these temporary employees, who were regularly appointed into service after 01.04.2003 is eligible to avail the benefits under the Old Pension Scheme i.e., Tamil Nadu Pension Rules, 1978. However, these employees were appointed after 01.04.2003 would be eligible to get the pensionery benefit under the Contributory Pension Scheme. Therefore, the term used in the Circular is to be read in the context of Contributory Pension Scheme and not with reference to the provisions of Tamil Nadu Pension Rules, 1978.

27. In view of the fact that all the writ petitioners were admittedly appointed into regular services after the cut-off date of 01.04.2003, they are eligible to get the benefits under the New Pension Scheme, i.e., Contributory Pension Scheme and their claim for the benefits under the Old Pension Scheme is untenable. Since the Old Pension Scheme is not applicable to



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these petitioners, they are not entitled to seek counting of 50% of the services under Rule 11(4) of the Tamil Nadu Pension Rules, 1978. However, the writ petitioners are entitled to claim all the benefits under the Contributory Pension Scheme. The respondents are directed to suitably adjust the erroneous contributions, if any collected from the employees, if necessary, by obtaining instructions from the Accountant General of Tamil Nadu.

28. In view of the above factual and legal position, we are inclined to confirm the order impugned. Consequently, the Writ Petitions are dismissed. No costs. The connected Miscellaneous Petitions are closed.

(S.M.S.,J.) (K.R.S.,J.)
18.03.2024

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skr
Index : Yes
Speaking order
Neutral Citation : Yes

To

1. The Secretary to Government of Tamil Nadu,



Home (Courts-II) Department, Fort St. George, Chennai – 600 009.

2. The Registrar General, High Court of Judicature, Madras – 600 104.

3. The Hon'ble Principal Judge, City Civil Court,
High Court Buildings, Madras – 600 104.

4. The Registrar General, High Court, Madras,
High Court Complex, Chennai – 600 104.

5. The Secretary to Government of Tamil Nadu,
Personal and Administrative Department,
Secretariat, Chennai – 600 009.

6. The State of Tamil Nadu, represented by its Secretary to Government,
Finance (PGC) Department, Secretariat, Chennai – 600 009.

7. The Principal Accountant General (Accounts and Establishment),
361, Anna Salai, Teynampet,
Chennai – 600 018.



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S.M.SUBRAMANIAM, J.
and
K.RAJASEKAR, J.

skr

W.P.Nos.1661 of 2015 and 19076 and 35462 of 2023

18.03.2024
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