



W.A.No.3416 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

W.A.No.3416 of 2019
and
C.M.P.No.21968 of 2019

1.The State of Tamil Nadu
Rep. By its Secretary to Government
Labour and Employment (E2) Department,
Secretariat, Chennai – 9.

2.The Commissioner of Labour,
Chennai – 600 006.

.. Appellant

VS

Tmt.G.Mani

.. Respondent

Prayer : Writ Appeal filed under Clause 15 of Letters Patent against the order dated 02.08.2017 made in W.P.No.14966 of 2016.

For Appellants : Mr.T.Chandrasekaran
Special Government Pleader

For Respondent : Not ready in notice

JUDGMENT

(Delivered by G. ARUL MURUGAN.,J)

This intra-court appeal is preferred against order dated 02.08.2017 made in W.P.No.14966 of 2016. The writ petitioner/respondent had approached the writ court with the prayer to count 50% of services rendered by her husband from 06.11.1989 to 20.06.2008 along with the



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regular service for the purpose of granting family pension to the writ petitioner and to grant family pension with all benefits and pay arrears of family pension.

2. The learned Single Judge had taken note of the amendment carried out in Rule 11 (4) of the Tamil Nadu Pension Rules whereby the cut-off date of 01.04.2003 is fixed and also the fact that in the several judgments of the Division Bench, the cut-off date 01.04.2003 was declared as inconsequential and disposed of the writ petitions by quashing the impugned order and directed the authorities to reconsider the issue afresh by approving the above period without reference to the cut-off date fixed under Rule 11(iv).

3. Learned Special Government Pleader submits that the issue was reconsidered by the authorities pursuant to the directions passed by the learned Single Judge and the same came to be ultimately rejected in ந.க.எண்: ஐ2/54765/2015 dated 01.03.2018. He brought to the attention of the Court that the rejection order has not been put to challenge by the appellant.

4. Be that as it may, as far as the present position is concerned, since there were different views on this issue, the matter was referred to a Full Bench for an authoritative pronouncement and the Hon'ble Full Bench in the case of the *State of Tamil Nadu v. R.Kaliyamoorthy*, reported in [2020 (2) MLJ 369] has held that the service put in by the employees either on the temporary or adhoc basis and having been regularized after 01.04.2003 cannot be counted for the purpose of qualifying service for



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pension. Further, the Full Bench was also of the view that the cut-off date fixed as 01.04.2003 is valid. Paragraph 45 of the judgment 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 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."



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5. In view of the decision of the Full Bench, supra, the claim of the writ petitioner cannot be considered and further taking note of the fact that the authorities have reconsidered the issue and the claim of the writ petitioner having eventually been rejected and served on the writ petitioner, which has not been challenged, we are of the view that, no further orders are required to be passed in this matter and the writ appeal stands closed. No costs. Connected miscellaneous petition closed.

[A.S.M., J] [G.A.M., J]
09.08.2024

Index:Yes/No
Neutral Citation:Yes/No
ssm



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and
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