



WEB COPY

W.A.No.2653 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.No.2653 of 2021

and

C.M.P.No.17263 of 2021

The Director,
Local Fund Audit,
4th Floor, Kuralagam,
Chennai 600 108.
Present address
Local Fund Audit,
Integrated Finance Complex,
4th Floor, Nandanam,
Chennai – 600 035.

... Appellant

Vs.

1.A.Chandrasekaran

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

3.The Commissioner of Municipal Administration,
6th Floor, Ezhilagam,
Chepauk, Chennai – 600 005.



W.A.No.2653 of 2021

4. The Commissioner,
Kanchipuram Municipal Office,
Kanchipuram.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 09.07.2020 passed in W.P.No.18921 of 2013 and allow the writ appeal.

For Appellant	: Mr.S.John J.Raja Singh Additional Government Pleader
For R1	: Mr.J.Shanmuga Sundara Babu
For R2 & R3	: No Appearance
For R4	: Mr.G.B.Rajesh

J U D G M E N T

[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

The issue primarily raised in the present writ appeal is, whether half of the service rendered by the employees in the Public Sector Undertaking Company is to be reckoned as qualifying service for grant of pension under the Tamil Nadu Pension Rules, 1978.

2. The facts in nutshell would reveal that the 1st respondent was



W.A.No.2653 of 2021

initially served in Tamil Nadu Steels Limited, a company registered under the Companies Act and owned by the Government of Tamil Nadu.

3. It is not in dispute that the Labour Laws are applied for the employees served in Tamil Nadu Steels Limited. Accordingly, admissible Employment Provident Fund (EPF), Gratuity amount are settled based on the Statutes and Rules applicable to company. The company was closed. Closure compensation had been settled in favour of the employees. Thereafter, the 1st respondent was appointed in Kanchipuram Municipality as Junior Assistant and retired from service.

4. It is not disputed that the 1st respondent served 9 years, 5 months and 5 days in Kanchipuram Municipality. Since he had not completed the minimum qualifying service of 10 years under the Pension Rules, pension has not been paid to the 1st respondent. The 1st respondent made a representation to the authorities. The appellant addressed a letter to Commissioner, Kanchipuram Municipality in proceedings dated 01.04.2013, asking the Commissioner to secure consent from the 1st respondent for depositing all the benefits granted by Tamil Nadu Steels Limited including the closure compensation. The 1st respondent agreed to re-pay the gratuity,



but declined to re-pay the closure compensation. Therefore, the authorities have not proceeded with the representation submitted by the 1st respondent for grant of pension. The 1st respondent filed a writ petition, which was allowed. Thus, the Director, Local fund Audit, Chennai preferred the present writ appeal.

5. Rule 11 Sub Clause (2) was inserted by way of amendment in G.O.Ms.No.283, Finance (Pension) Department dated 15th April, 1996 with effect from 1st June, 1979. The said Rule reads as under;

“(2) Half of the service paid from contingencies shall be allowed to count towards qualifying service for pension along with regular service subject to the following conditions:

- (1) Service paid from contingencies shall be in a job involving whole time employment and not part-time for a portion of the day.*
- (2) Service paid from contingencies shall be in a type of work or job for which regular posts could have been sanctioned, for example Chowkidar.*
- (3) Service shall be for which the payment is made out on monthly or daily rates*



WEB COPY



W.A.No.2653 of 2021

computed and paid on a monthly basis and which, though not analogous to the regular scale of pay, shall bear some relation in the matter of pay to those being paid for similar jobs being performed by staff in regular establishments.

- (4) *Service paid from contingencies shall be continuous and followed by absorption in regular employment without a break.*
- (5) *Subject to the above conditions being fulfilled, the weightage for past service paid from contingencies shall be limited to the period after the 1st January, 1961 for which authentic records of service may be available.*
- (6) *Pension or revised pension admissible as the case shall be paid from the 23rd June, 1988]*”

6. As per the above Rule, half of the services rendered by the State Government employee under non-pensionable establishment salary allowed to be counted for the pensionary benefits. However, in the present case, the



W.A.No.2653 of 2021

1st respondent was not a State Government employee. He was an employee in Tamil Nadu Steels Limited, which is a Public Sector Undertaking. Therefore, the service conditions are governed under applicable Labour Laws. Since the 1st respondent was not a State Government employee served under non-pensionable establishment, question of counting half of the services rendered would not arise at all.

7. In the present case, admittedly, the 1st respondent received gratuity, closure compensation and admissible benefits under the relevant Labour Laws. Once those benefits are settled, the employees are not eligible to seek any other benefits under the Tamil Nadu Pension Rules. The benefits are settled to the employees of the Tamil Nadu Steels Limited for the services rendered by them in the company. While so, granting further benefits for the services rendered in the Tamil Nadu Steels Limited is impermissible. Even the authorities have made an attempt to consider the case of the 1st respondent provided he repay the benefits received by him from the company. Since the 1st respondent refused to deposit closure compensation, his case was not considered. More so, the authorities have not taken final decision regarding his eligibility to receive pension under the Tamil Nadu



W.A.No.2653 of 2021

Pension Rules, 1978.

WEB COPY

8. In view of the facts and circumstances, the Writ Court granted the relief, which is not in consonance with Rule 11(2) of the Tamil Nadu Pension Rules, 1978. Thus, we are inclined to interfere. Accordingly, the writ order dated 09.07.2020 passed in W.P.No.18921 of 2013 is set aside and consequently, the Writ Appeal stands allowed. No costs. Connected Miscellaneous Petition is closed.

[S.M.S., J.] [C.K., J.]
03.07.2024

Jeni

Index : Yes

Speaking order

Neutral Citation : Yes

To

- 1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George, Chennai – 600 009.
- 2.The Commissioner of Municipal Administration,
6th Floor, Ezhilagam,
Chepauk, Chennai – 600 005.
- 3.The Commissioner,
Kanchipuram Municipal Office,
Kanchipuram.



WEB COPY



W.A.No.2653 of 2021

S.M.SUBRAMANIAM, J.
and
C.KUMARAPPAN, J.

Jeni

W.A.No.2653 of 2021

03.07.2024