



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.P.Nos.12972, 12973, 12974, 12975, 12976, 12977 & 12978 of 2014
& M.P.Nos. 1 (7 Nos.) & 2 (7 Nos.) of 2014

S.Suguna ... Petitioner in W.P.No.12972/2014

T.Vimala ... Petitioner in W.P.No.12973/2014

E.Rani ... Petitioner in W.P.No.12974/2014

M.Kumari ... Petitioner in W.P.No.12975/2014

A.Shamima ... Petitioner in W.P.No.12976/2014

D.Kasthuribai ... Petitioner in W.P.No.12977/2014

S.Shamshadh ... Petitioner in W.P.No.12978/2014

..Vs..

1. State of Tamil Nadu

Represented by the Secretary

Social Welfare and Nutritious Meal Department

Fort St. George, Chennai 600 009.



2. The Director,
Social Welfare Department,
Chintadripet, Chennai 600 002.

3. The Principal Secretary/Special Commissioner
Integrated Child Development Scheme
Taramani, Chennai 600 113.

4. The Principal Accountant General
(Accounts and Entitlements)
Teynampet, Chennai 600 018.

... Respondents in all WPs

PRAYER in W.P.No.12972 of 2014: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to G.O.No.34, Social Welfare and Nutritious Meal Department dated 14/03/2013 and the consequential order of the fourth respondent bearing No.P27/III/Pt6685/159407 dated 31/01/2014 rejecting the petitioner's claim for pension on the basis of the said G.O.and quash the same and direct the respondents to forthwith grant the petitioner pension and other retirement benefits with effect from the date on which she attained the age of superannuation.

PRAYER in W.P.No.12973 of 2014: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to G.O.No.34, Social Welfare and Nutritious Meal Department dated 14/03/2013 and the consequential order of the fourth respondent bearing No.P27/IV/6642/161272 dated 29/01/2014 rejecting the petitioner's claim for pension on the basis of the said G.O.and quash the same and direct the respondents to forthwith grant the petitioner pension and other retirement benefits with effect from the date on which she attained the age of superannuation.

PRAYER in W.P.No.12974 of 2014: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to G.O.No.34, Social Welfare and



Nutritious Meal Department dated 14/03/2013 and the consequential order of the fourth respondent bearing No.P27/I/Pt6671/143176 dated 26/12/2013 rejecting the petitioner's claim for pension on the basis of the said G.O. and quash the same and direct the respondents to forthwith grant the petitioner pension and other retirement benefits with effect from the date on which she attained the age of superannuation.

PRAYER in W.P.No.12975 of 2014: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to G.O.No.34, Social Welfare and Nutritious Meal Department dated 14/03/2013 and the consequential order of the fourth respondent bearing No.P27/IV/Pt6534/161275 dated 29/01/2014 rejecting the petitioner's claim for pension on the basis of the said G.O. and quash the same and direct the respondents to forthwith grant the petitioner pension and other retirement benefits with effect from the date on which she attained the age of superannuation.

PRAYER in W.P.No.12976 of 2014: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to G.O.No.34, Social Welfare and Nutritious Meal Department dated 14/03/2013 and the consequential order of the fourth respondent bearing No.P27/2/Pt6640/13-14/144285 dated 03/01/2014 rejecting the petitioner's claim for pension on the basis of the said G.O. and quash the same and direct the respondents to forthwith grant the petitioner pension and other retirement benefits with effect from the date on which she attained the age of superannuation.

PRAYER in W.P.No.12977 of 2014: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to G.O.No.34, Social Welfare and Nutritious Meal Department dated 14/03/2013 and the consequential order of the fourth respondent bearing No.P27/I/Pt6643/144060 dated 26/12/2013 rejecting the petitioner's claim for pension on the basis of the said G.O. and quash the same and direct the respondents to forthwith grant the petitioner pension and other retirement benefits with effect from the date on which she attained the age of superannuation.



PRAYER in W.P.No.12978 of 2014: Writ Petition is filed under Article 226 of Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to G.O.No.34, Social Welfare and Nutritious Meal Department dated 14/03/2013 and the consequential order of the fourth respondent bearing No.P27/2/Pt6644/13-14/144240 dated 03/01/2014 rejecting the petitioner's claim for pension on the basis of the said G.O. and quash the same and direct the respondents to forthwith grant the petitioner pension and other retirement benefits with effect from the date on which she attained the age of superannuation.

For Petitioners : Ms.Ramapriya Gopalakrishnan
(in all W.Ps)

For Respondents : Mr.P.Muthukumar, AAG.
(in all W.Ps) Assisted by Mr.S.John J.Singh,AGP

COMMON ORDER

Since the issue involved in all these writ petitions is inter-connected, all the writ petitions are heard together and disposed of by this common order.

2. The petitioners were working as Child Welfare Organizers in the Social Welfare department and their services were regularized with effect from 25.09.2008 and they all got superannuated from service around the year 2012. According to the petitioners, by G.O. No.408 dated 25.08.2009, issued by the Finance Department, 50% of the services rendered in Non-Provincialised service, or on consolidated pay or on honorarium or daily wage basis can be counted only in respect of employees whose services were regularized prior to 01.04.2003.



3. By a subsequent G.O.(Ms.)No.6 dated 05.01.2010 issued in respect of Noon meal organizers and Anganwadi workers, no such cut-off date has been fixed and even in respect of the employees who were regularized after 01.04.2003, their 50% services in temporary capacity were counted for considering the pensionary benefits. However, by the impugned G.O.(Ms.)No.34, dated 14.03.2013, G.O.(Ms.)No.6 was amended by including the cut-off date as 01.04.2003, based on which the claim of the petitioners came to be rejected. As such challenging the impugned G.O., the petitioners have preferred these writ petitions.

4. When these matters are taken up for hearing, both the learned counsel for the petitioners and learned Additional Advocate General appearing for the respondents submitted that the relief sought for in all these writ petitions is to count 50% of the period of service, which they have put in non-provincialised category for the purpose of calculating the pensionary benefits.



5. However, when these writ petitions are pending, the issue has already been settled by the Hon'ble Full Bench in the case of ***Government of Tamil Nadu, rep. By Secretary to Government v. R.Kaliamoorthy***, reported in **2019 (6) CTC 705**, wherein it is held that only for those Government employees who have rendered service in Non-Provincialised service or on consolidated pay or on honorarium or daily wage basis and regularized before 01.04.2003, 50% of the services can be taken into account for calculating their pensionary benefits.

Paragraph 45 of the order is extracted hereunder:

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

(i) Those, who are freshly appointed on or after 1.4.2003 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 6.8.2003.

(ii) Those Government servants/Employees appointed prior to 1.4.2003 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, 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 1.4.2003, 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 1.4.2003 and absorbed into Regular service after 1.4.2003 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 1.4.2003 but were absorbed in Regular service after 1.4.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for Pension.”*

6. Learned counsel for the petitioners fairly submitted that in all these cases, admittedly the services of the petitioners have been regularized only after 01.04.2003.

7. In view of the decision of the Hon'ble Full Bench in *R.Kaliamoorthy* case, referred supra, which was also confirmed by the decision of another Full bench in the case of *State of Tamil Nadu and another versus P.Arunachalam, dated 20.03.2024 in W.A. No.714 of 2016 batch*, the relief sought for by the petitioners herein cannot be sustained.



8. In view of the above, the claim made by the petitioners are rejected and all the writ petitions are disposed of. No order as to costs. Consequently, connected miscellaneous petitions are closed.

02.12.2024

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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To

1. State of Tamil Nadu

Represented by the Secretary
Social Welfare and Nutritious Meal Department
Fort St. George, Chennai 600 009.

2. The Director,

Social Welfare Department,
Chintadripet, Chennai 600 002.

3. The Principal Secretary/Special Commissioner

Integrated Child Development Scheme
Taramani, Chennai 600 113.

4. The Principal Accountant General

(Accounts and Entitlements)
Teynampet, Chennai 600 018.



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G.ARUL MURUGAN, J.

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26.11.2024