



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.20250, 20252, 20254 & 20255 of 2021

R.Saraswathi ... Petitioner
[in W.P.No.20250 of
2021]

V.Ushadevi ... Petitioner
[in W.P.No.20252 of
2021]

S.Vijayalakshmi ... Petitioner
[in W.P.No.20254 of
2021]

A.Shanthakumari ... Petitioner
[in W.P.No.20255 of
2021]

versus

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai - 9.
- 2.The Director of Government Examinations,
O/o.The Directorate of Government Examinations,
College Road, Chennai - 6.
- 3.The Deputy Director (Administration)
of Government Examinations,



O/o.The Directorate of Government Examinations,
College Road, Chennai - 6. ...

Respondents
[in all W.Ps]

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, seeking for a writ of Certiorarified Mandamus, calling for the records connected in R.C.No.101795, 101793, 101542, 101799/E2-1/2017, dated 21.12.2020 of the 3rd respondent and quash the same and consequently direct the respondents to extent the benefits of G.O.(ID)No.286, School Education (GE1) Department, dated 19.07.2016, G.O.(ID)No.238, School Education (Nee.Va.4(2)) Department, dated 07.04.2017, and G.O.(Pa)No.72, School Education (GE) Department, dated 28.02.2019 and grant pension to the petitioners from the date of retirement respectively.

For Petitioner : Mr.K.Arumugam
[in all W.Ps]

For Respondents : Mr.P.Gurunathan
[in all W.Ps] Additional Government Pleader

COMMON ORDER

Heard Mr.K.Arumugam, learned counsel for the petitioner and Mr.P.Gurunathan, learned Additional Government Pleader for the respondents and perused the materials available on record.

2. The petitioners, who are affected due to regularisation given w.e.f. the date of issuance of G.O.(Ms.)No.203, School Education (V1) Department, dated 19.10.2006 had filed these Writ Petitions claiming



regularisation from the date of completion of 10 years of service from initial appointment as Section Writers through Employment Exchange.

3. The petitioners and other similarly placed persons, who have been serving in various Government Departments in temporary basis for several years have been considered to be absorbed permanently and in this regard, Government Order has been issued in G.O.(Ms.)No.22, P & AR Department, dated 28.02.2006. The petitioners, who have also completed 10 years of service as on 10.08.1997, 25.05.1997, 13.07.1997 and 22.05.1997 respectively had been issued with the benefit of regular appointment through G.O.(Ms.)No.203, School Education (V1) Department, dated 19.10.2006. Subsequently, their services had been regularised w.e.f. 20.10.2006 on which date they have joined to the post of Record Clerk.

4. Mr.K.Arumugam, learned counsel for the petitioners submitted that similarly placed persons, who have completed 10 years of service as on 01.01.2006 have been absorbed by issuance of various Government Orders and many of them have been absorbed before 01.04.2003 and further their services have been regularised from the date of their completion of 10 years of service. Since the petitioners had been given with the order only in the



year 2006, they fall outside the crucial date i.e. 31.03.2003 in order to be covered under the old pension scheme.

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5. However, Mr.P.Gurunathan, learned Additional Government Pleader for the respondents submitted that the position of law in terms of appointment has been made subsequent to 01.04.2003 and it has been well settled in the judgment rendered by the Full Bench of this Court in *W.A.No.158 of 2016 etc. batch dated 03.12.2019 [The Government of Tamil Nadu Vs. R.Kaliyamoorthy]* wherein it is held as under:-

"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



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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."

6. Only if the petitioners' past services prior to 01.04.2003 were regularised, they can get the benefit of computation of 50% of their past services for the purpose of getting retiral benefits. Similar such persons, who have raised claims have obtained favourable orders through many of the judicial pronouncements.



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7. In *W.A.No.1458 of 2019 dated 20.01.2023 [M.Shanmugam Vs. Government of Tamil Nadu]*, a Division Bench of this Court has held that the relief has been given by directing the respondents to regularise the services of the similarly placed persons w.e.f. 10 years of service from the date of their initial appointment.

8. Even though the respondents had relied on the judgment of the Full Bench of this Court and the guidelines issued therein, the facts of the petitioners are slightly different in terms of their entitlement for appointment. As per G.O.(Ms.)No.22, P & AR Department, dated 28.02.2006, the employees who have working in all Government Departments on daily wages and who have completed 10 years of service as on 01.01.2006 will be regularised. So far as these petitioners are concerned, they had completed 10 years of service as on 10.08.1997, 25.05.1997, 13.07.1997 and 22.05.1997 respectively itself. However they were regularised only from 20.10.2006 which is subsequent to the issuance of G.O.(Ms.)No.203, School Education (V1) Department, dated 19.10.2006.



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9. The petitioners' were absorbed only in view of the scheme of the Government made in G.O.(Ms.)No.22, P & AR Department, dated 28.02.2006 by considering the petitioners' completion of 10 years of service. The date on which they have to be absorbed in the regular employment would relate back to the date on which the petitioners complete 10 years of service and not from the date of issuance of the Government Order or from any future dates. The same logic has been applied to the similarly placed persons, who have been given with the benefit of getting their past services to be regularised from the completion of 10 years of service and the petitioners alone cannot be deprived of the same.

10. The petitioners had made a representation to regularise their services from the date of completion of 10 years of service and that had been rejected on 21.12.2020 by the 3rd respondent by citing the judgment of the Full Bench of this Court rendered in *Kaliyamoorthy's case* stated supra.

11. As stated already, the petitioners' case is slightly different in terms of their entitlement for appointment. Since the entitlement of the petitioners to get regularised relates back to their completion of 10 years of



service as on 10.08.1997, 25.05.1997, 13.07.1997 and 22.05.1997 respectively, the regularisation should be given w.e.f. the said date and not from the date of issuance of G.O.(Ms.)No.203, School Education (V1) Department, dated 19.10.2006.

In view of the above stated reasons, these Writ Petitions are **allowed** and the orders passed by the 3rd respondent dated 21.12.2020 is quashed and the 3rd respondent is directed to issue fresh orders to regularise the services of the petitioners w.e.f. the date of completion of 10 years of service, within a period of six (6) weeks from the date of receipt of a copy of this order.

20.02.2024

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

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To
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- 1.The Secretary to Government,
State of Tamil Nadu,
School Education Department,
Secretariat, Chennai - 9.
- 2.The Director of Government Examinations,
O/o.The Directorate of Government Examinations,
College Road, Chennai - 6.
- 3.The Deputy Director (Administration)
of Government Examinations,
O/o.The Directorate of Government Examinations,
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