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W.A.Nos.5 of 2019,

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.A.Nos.5, 9, 12, 19, 20, 24, 28, 33 and 34 of 2019,
W.P.Nos.24918 to 24930 of 2015 and
C.M.P.Nos.293, 60, 329, 118, 174, 179, 246, 249, 254, 64, 90, 91 of 2019

W.A.No.5 of 2019

The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Social Welfare and Nutritious Meal Programme Department,
Fort St.George, Chennai-600 009.

... Appellant/Respondent

-VS-

1. M.Manonmani

... Respondent / Petitioner

2. The Block Development Officer,
Panchayat Union Office,
Jayankondan,
Ariyalur District.

... Respondent / 2nd Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated
31.07.2015 made in W.P.No.23149 of 2015.

For Appellants : Mr.R.Neelakandan,
Addl. Advocate General
Assisted by Mr.P.Balathandayutham
Spl. Govt. Pleader (in all Was.)



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W.A.Nos.5 of 2019,

For Petitioners : Mr.S.S.Raghavan (in all WPs.)

Writ Appeals

Case No.	Parties	Counsel Name
W.A.5/2019	For R1 & R2	No Appearance
W.A.9/2019	For R1 For R2	Mr.K.Shanmugam No Appearance
W.A.12/2019	For Respondent	No Appearance
W.A.19/2019	For R1 & R2	No Appearance
W.A.20/2019	For R1 & R2	No Appearance
W.A.24, 28, 33 & 34/2019	For Respondent	No Appearance

Writ Petitions

Case No.	Parties	Counsel Name
W.P.24918/2015	For R1-R7 For R8 For R9	Mr.R.Neelakandan, Addl. Advocate General Assisted by Mr.P.Balathandayutham, Spl. Govt. Pleader No Appearance Mr.T.M.Rajangam
W.P.24919/2015	For R1-R3	Mr.R.Neelakandan, Addl. Advocate General Assisted by Mr.P.Balathandayutham, Spl. Govt. Pleader
W.P.24920/2015	For R1, R2 & R4 For R3	Mr.R.Neelakandan, Addl. Advocate General Assisted by Mr.P.Balathandayutham, Spl. Govt. Pleader No Appearance
W.P.24921/2015	For R1-R4 & R6	Mr.R.Neelakandan, Addl. Advocate General Assisted by Mr.P.Balathandayutham, Spl. Govt. Pleader



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W.A.Nos.5 of 2015,

<i>Case No.</i>	<i>Parties</i>	<i>Counsel Name</i>
	For R5	No Appearance
W.P.24922/2015	For R1-R5	Mr.R.Neelakandan, Addl. Advocate General Assisted by Mr.P.Balathandayutham, Spl. Govt. Pleader
W.P.24923/2015	For R1 & R2	Mr.R.Neelakandan, Addl. Advocate General Assisted by Mr.P.Balathandayutham, Spl. Govt. Pleader
	For R3	No Appearance
W.P.24924/2015	For R1-R4	Mr.R.Neelakandan, Addl. Advocate General
W.P.24925/2015	For R1-R4	Assisted by Mr.P.Balathandayutham,
W.P.24926/2015	For R1-R6	Spl. Govt. Pleader
W.P.24927/2015	For R1 & R2	Mr.R.Neelakandan, Addl. Advocate General Assisted by Mr.P.Balathandayutham, Spl. Govt. Pleader
	For R3	Mr.K.H.Ravikumar
W.P.24928/2015	For R1, R2 & R4	Mr.R.Neelakandan, Addl. Advocate General Assisted by Mr.P.Balathandayutham, Spl. Govt. Pleader
	For R3	No Appearance
W.P.24929/2015	For R1-R4 & R6	Mr.R.Neelakandan, Addl. Advocate General Assisted by Mr.P.Balathandayutham, Spl. Govt. Pleader
	For R5	Mr.V.Subbiah
	For R7	No Appearance
W.P.24930/2015	For R1-R3 & R4	Mr.R.Neelakandan, Addl. Advocate General Assisted by Mr.P.Balathandayutham, Spl. Govt. Pleader
	For R5	Mr.T.M.Rajangam

COMMON JUDGMENT

(By D.Krishnakumar,J.)



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These Writ Appeals and Writ Petitions have been clubbed together on the orders of this Court for the reason that the issue involved in all these cases is one and the same, namely, claiming pensionary benefits by counting 50% of the services rendered in the Noon Meal/Integrated Child Development Scheme on the basis of G.O.Ms.No.6, Social Welfare and Nutritious Programme Department dated 06.01.2010.

2. The facts in nutshell are that a huge number of employees were employed in Noon Meal Centres to work as Cook Assistants, Noon Meal Cooks and Noon Meal Organizers under Noon Meal / Integrated Child Development Scheme for providing food to children and though they were initially appointed on consolidated pay, subsequently, they were given time scale of pay with Dearness Allowance vide G.O.Ms.No.2, Social Welfare and Nutritious Meal Programme Department dated 03.01.1996. All the employees thereafter made a demand for counting 50% of their services rendered in Noon Meal schemes along with their regular service for the purpose of pension. Since there were divergent views expressed by two Division Benches, the issue in respect of counting 50% of the services had been referred to the Full Bench of this Court.

3. Today, the parties have produced a copy of the judgment of the Full Bench **dated 20.03.2024** passed in **W.A.Nos.714 to 716 of 2014, etc. batch**, wherein the Full Bench, after considering a judgment of the Supreme Court in the case of **Prem**.



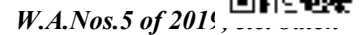
Singh V State of Uttar Pradesh and others reported in **(2019) 10 SCC 516** and giving

thoughtful consideration to the provisions of Rule 3(8) of the Uttar Pradesh Retirement Benefits Rules, 1961 and Rule 11 of the Tamil Nadu Pension Rules, 1978, answered the reference as follows:

“10. Rule 11 of the Tamil Nadu Pension Rules, 1978 [for brevity, “the Pension Rules, 1978”] deals with “qualifying service”. Sub-rule (4) is added to Rule 11 with effect from the year of 2010 and the same reads thus:

“11. Commencement of qualifying service – (1) to (3)
(4) Half of the service rendered under the State Government in non-provincialised service, consolidated pay, honorarium or daily wages basis on or after 1 st January 1961 in respect of Government employees absorbed in regular service before 1 st April shall be counted for retirement benefits along with regular service, subject to the following conditions, namely;- (i) Service rendered in non-provincialised service, consolidated pay, honorarium or daily wages basis shall be in a job involving whole time employment; (ii) Service rendered shall be on consolidated pay, honorarium or daily wages paid on monthly basis and subsequently absorbed in regular service under the State Government; (iii) Service rendered in non-provincialised service, consolidated pay, honorarium or daily wages basis shall be followed by absorption in regular service before 1 st April 2003 without a break;

Provided that this sub-rule is applicable to all employees who rendered service under the State Government in non-provincialised service, consolidated pay, honorarium or daily wages basis on or after 1 st January 1961 and absorbed in regular service before 1 st April 2003. Provided further that whatever there was break in service before their absorption in regular service before 1 st April 2003, the same shall be specially condoned by the orders of the Head of Departments, in which the employees were regularly absorbed and such period of break, shall not count for the purpose of pensionary benefits.”



15. The Government Order referred to in the order under reference does not state anywhere with regard to the grievance of the petitioners/appellants. The judgment of the Apex Court on the basis of which the matter was referred to the Full Bench (Prem Singh) also would not be applicable. Even we cannot apply the principle of reading down in a particular manner, as the constitutionality of the said Rule is not challenged.



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It is for the appellants/petitioners to take appropriate steps as may be permissible in law. "

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4. By relying on the aforesaid Full Bench judgment, it was vehemently pleaded by the learned Additional Advocate General appearing for the Appellants that the employees are not entitled to relief and their 50% of the services cannot be counted for pensionary benefits.

5. In view of the above authoritative pronouncement of the Full Bench, which has not been disputed by the learned counsel for the Writ Petitioners/Employees, we are of the view that the claim of the Writ Petitioners herein and the respective employees cannot be entertained, as they were admittedly absorbed in the regular service after 01.04.2003.

6. Accordingly, all the Writ Appeals are allowed and the common order dated 31.07.2015 passed by the learned Single Judge is hereby set aside. Consequent

D.KRISHNAKUMAR,J.,

AND

K.KUMARESH BABU,J.,

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thereto, the Writ Petitions, being devoid of merits, stand dismissed. No costs.

Consequently, connected Miscellaneous Petition are closed.



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[D.K.K., J.,]

[K.B., J]

16.04.2024

Index: Yes / No

Internet: Yes / No

Speaking Order/Non Speaking Order
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W.A.Nos.5, 9, 12, 19, 20, 24, 28, 33 and 34 of 2019
and W.P.Nos.24918 to 24930 of 2015