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W.A. No. 1811 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2024

CORAM

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE K. KUMARESH BABU

W.A. No. 1811 of 2021

&

C.M.P. No. 11320 of 2021

1. The State of Tamil Nadu,
rep. by Principal Secretary to Govt.,
School Education Department,
Fort St. George,
Chennai – 600009.
2. The Director of Public Libraries,
Anna Salai,
Chennai – 600 002.
3. The District Library Officer,
District Library Office,
Government Hospital Road,
Ooty – 643 001. ..Appellants

Vs.



W.A. No. 1811 of 2021

1. Thiru N.J. Chandran (died)
 2. Tmt. Sardha
 3. Selvi C. Mamtha
 4. Selvan C. Prasanth
- (R2to R4 brought on record as Lrs of deceased 1st respondent vide order of Court dt. 29.03.2021 in C.M.P. No. 5222 of 2021 in W.A.SR. No.73742 of 2018 (SB.CJ and SKRJ)

..Respondents

Prayer: Writ Appeal under Clause 15 of Letters Patent as against the order dated 10.04.2018 passed in W.P. No. 8431 of 2018.

For Appellants	::	Mr.J.C. Durairaj
		Addl. Govt. Pleader
For Respondents	::	No appearance for
		R2 to R4

J U D G M E N T

(Delivered by D. KRISHNAKUMAR,J.)

This writ appeal is directed against the order dated 10.04.2018 passed in W.P. No. 8431 of 2018.

2. The 1st respondent had approached this Court to count the services rendered by him in the post of Part Time Librarian, Double Part



W.A. No. 1811 of 2021

Time Librarian, Village Librarian (Grade III Librarian) for the purpose of reckoning the qualifying service and also to extend the benefit of Tamil Nadu Pension Rules, 1978 relying upon amended Rule 11 of the said Rules. The learned Single Judge, after considering the rival submissions and various judgments of this Court, by the order under challenge, disposed of the writ petition quashed the rejection orders and directed the respondents therein to reconsider the case of the writ petitioner, in the light of observations made in the order, for the purpose of granting the relief of counting of 50% of service rendered on temporary basis and pass appropriate orders after verifying the service records and based on Rule 11 of the Tamil Nadu Pension Rules, 1978. Challenging the same, the intra-court appeal is before this Court, at the instance of the Government.

3. When the writ appeal is taken up, learned Additional Government Pleader appearing on behalf of the appellants submitted that the issue involved in this case is squarely covered by the Full Bench judgment of this Court dated 03.12.2019 passed in W.A. Nos. 158 of 2016 etc batch wherein the relevant paragraph No.45 reads as follows:

"45. In the light of the above, we answer the reference as



W.A. No. 1811 of 2021

follows:

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(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*



W.A. No. 1811 of 2021

determination of qualifying service for pension.

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(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."

4. Since the writ petitioner's services were regularised only with effect from 26.12.2011, counting of half of the past service of the writ petitioner for the purpose of determination of qualifying service does not arise in view of clause (v) of above extract. Hence, the order under challenge is set aside and the writ appeal stands allowed. No costs. Connected C.M.P. is closed.

nv

12.04.2024

(D.K.K.J.) (K.B.J.)

To

1. The Principal Secretary to Govt.,
School Education Department,
Fort St. George,

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W.A. No. 1811 of 2021

Chennai – 600009.

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WEB COPY



W.A. No. 1811 of 2021

W.A. No. 1811 of 2021

12.04.2024