



W.A(MD) No.725 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

W.A(MD) No.725 of 2020

and

C.M.P.(MD)No.4243 of 2020

- 1.The Engineer in Chief (WRO) and
Chief Engineer (General),
Public Works Department,
Chepauk,
Chennai-600 005.
- 2.The Superintending Engineer, PWD/WRO,
Thamirabarani Basin Circle,
Tirunelveli.
- 3.The Executive Engineer PWD/WRO,
Kodayar Basin Division, Nagercoil,
Kanyakumari District.
- 4.The Assistant Executive Engineer PWD/WRO,
Pattanamkal Sub Division,
Kuzhithurai,
Kanyakumari District.
... Appellants 1 to 4 /
Respondents 1 to 4
- 5.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Public Works Department,
Fort St.George,
Chennai-600 009.
... 5th Appellant / 6th Respondent



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Vs.

N.Narayanan Nair (Died)

1.S.N.Jegadabai

2.N.Sathishkumar

3.J.Sheela Kumari

... Respondents 1 to 3 /
legal heirs of deceased writ petitioner

4.The Accounts Officer / Assistant,
Accountant General (A&E),
No.261, Annasalai,
Chennai.

... 4th Respondent / 5th Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the Order dated 27.01.2020 passed in W.P. (MD)No.19189 of 2014.

For Appellant : Mr.K.Selvaganesan
Additional Government Pleader

For Respondents : Mr.B.Brijesh Kishore
for R1 to R3
: Mr.P.Gunasekaran
for R4

ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.



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2. Thiru.Narayannan Nair / original writ petitioner joined the Public Works Department as NMR in the year 1967. He was brought into regular time scale of pay in the year 1981 and he was also regularised. He retired in the year 2005. The only question that arose was whether the period of service put in by him as NMR from 1967 to 1981 could be taken into account for the purpose of pension.

3. The case of the petitioner was that half of the said service will have to be taken into account in view of G.O.Ms.No.408, Finance (Pension) Department, dated 25.08.2009. The petitioner's request was not considered. Hence, Narayannan Nair filed W.P.(MD)No.19189 of 2014. During the pendency of the writ petition, he passed away and his legal representatives were brought on record. The writ petition was eventually allowed on 27.01.2020 and the Government was directed to take into account the half of the service rendered by Narayannan Nair before he was regularised. The arrears of pension were also directed to be disbursed. Questioning the same, this intra-court appeal came to be filed.



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4. Though the learned Additional Government Pleader made a valiant attempt to justify the stand of the appellant, we are of the view that the issue raised in the writ petition is squarely covered by the Full Bench decision reported in **2019 (6) CTC 705 (Government of Tamil Nadu Rep. by Secretary to Government Vs. R.Kaliyamoorthy)**. Paragraph No.45 (3) of the said decision reads as follows:-

“45.(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.”

5. Rule 11(4) of the Tamil Nadu Pension Rules is as follows:-

“11(4). Half of the service rendered under the State Government in non-provincialised service, consolidated pay, honorarium or daily wages basis on or after 1st January 1961 in respect of Government employees absorbed in regular service before 1st April 2003 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 basis paid on monthly basis and subsequently, absorbed



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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 1st April 2003 without a break.”

6. In view of the statutory position as well as the decision of the Hon'ble Full Bench decision, we are of the view that the order impugned in this writ appeal has to be necessarily sustained. The Writ Appeal stands dismissed. No costs.

(G.R.S., J.) (R.P., J.)
20.11.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
rmi



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