



W.A.(MD).No.1307 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.02.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**
and
THE HONOURABLE **MR.JUSTICE K.K.RAMAKRISHNAN**

W.A.(MD).No.1307 of 2016
and
C.M.P.(MD).No.9101 of 2016

- 1.The Government of Tamil Nadu
represented by its Principal Secretary,
Social Welfare and Nutritious Meal Programme,
Fort St. George,
Chennai.
- 2.The Principal Secretary,
Department of School Education,
Government of Tamil Nadu,
Fort St. George,
Chennai.
- 3.The Child Development Project Officer,
Thovalai,
Kanyakumari District.
- 4.The Child Development Project Officer,
Killiyur,
Kanyakumari District.
- 5.The District Project Officer,
Agasteeswaram,
Kanyakumari District.



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- 6.The Block Development Officer,
Kurundhankodu,
Kanyakumari District.
- 7.The Child Development Project Officer,
Alwarthirunagari,
Thoothukudi District.
- 8.The Block Development Officer,
Thoothukudi.
- 9.The Block Development Officer,
Karunkulam,
Thoothukudi District.
- 10.The Child Development Project Officer,
Virudhunagar.
- 11.The Project Officer,
Integrated Child Development Scheme,
Sattur,
Virudhunagar District.
- 12.The Block Development Officer,
Natham,
Dindigul District,
- 13.The Block Development Officer,
Cumbum,
Theni District.
- 14.The Block Development Officer,
Uthamapalayam,
Theni District.
- 15.The Block Development Officer,
Sanarpatti,
Dindigul District.



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16. The Block Development Officer,
Gujiliyamparati,
Dindigul District.
17. The District Project Officer,
Vilathikulam,
Thoothukudi District.
18. The Child Development Project Officer,
Kottampatti,
Madurai District.
19. The Block Development Officer,
Thiruparankundram,
Madurai District.
20. The Block Development Officer,
Alanganallur,
Madurai District.
21. The Block Development Officer,
Chinnamanur,
Theni District.
22. The Block Development Officer,,
Andipatti,
Theni District.
23. The Block Development Officer,
Aathur,
Dindigul District.
24. The Child Development Project Officer,
Dindigul.
25. The Child Development Project Officer,
Coimbatore.



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26.The Child Development Project Officer,
Aathur,
Dindigul District.

27.The District Project Officer,
Sanarpatti,
Dindigul District.

28.The Child Development Project Officer,
Thoothukudi Rural.

29.The Block Development Officer,
K.Mailadumparai,
Theni District.

30.The Block Development Officer,
Batlagundu,
Dindigul District.

31.The Project Officer,
Integrated Child Development Scheme,
Uthukuli,
Tirupur District.

32.The District Project Nutrition Officer,
Ammamet,
Thanjavur District.

33.The Child Development Project Officer,
Lalgudi,
Trichy District.

34.The Block Development Officer,
Perambalur.

35.The Block Development Officer,
Kumbakonam,
Thanjavur District.



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36.The Headmaster,
Corporation Higher Secondary School,
Tirunelveli.

37.The Headmaster,
Government Higher Secondary School,
Kattumavadi,
Pudukottai District.

38.The Headmaster,
Government High School,
Pandhanallur,
Thanjavur District.

39.The Headmaster,
Government High School,
Veladipatti,
Pudukottai District.

40.The Headmaster,
Government High School,
Kollangudi,
Sivagangai District.

41.The Headmaster,
Government Higher Secondary School,
Theppampatti,
Theni District.

42.The Headmaster,
Government Higher Secondary School,
Veerasikamani,
Tirunelveli District.

43.The Headmaster,
Government Higher Secondary School,
Aathur,
Thoothukudi District.



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44. The Headmaster,
Government High School,
Sundankottai,
Thoothukudi District.
45. The Headmaster,
Government Higher Secondary School,
Kariyapatti,
Virudhunagar District.
46. The Headmaster,
Government Boys Higher Secondary School,
Sayalkudi,
Thoothukudi District.
47. The Headmaster,
Government High School,
Semminipatti,
Melur. Madurai District.
48. The Headmaster,
Government High School,
Thenampatti,
Sivagangai District.
49. The Headmaster,
Government High School,
Kalimangalam,
Madurai District.
50. The Headmaster,
Government High School,
Vathipatti,
Dindigul District.



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51. The Headmaster,
Government High School,
Sakkarappanaickanur,
Madurai District.
52. The Headmaster,
Government High School,
Kancharangulam,
Sivagangai District.
53. The Headmaster,
Government Higher Secondary School,
Kolakudi,
Trichy District.
54. The Assistant Elementary Education Officer,
Andipatti,
Theni District.
55. The Headmaster,
Government High School,
Thuvarankurichi,
Thanjavur District.
56. The Headmaster,
Government Higher Secondary School,
Pannankombu,
Trichy District.
57. The Headmaster,
Government Higher Secondary School,
Arumanai,
Kanyakumari District.
58. The Headmaster,
Government Girls High School,
Ponpudhupatti,
Pudukottai District.



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59. The Headmaster,
Government Girls Higher Secondary School,
Tiruchendur,
Thoothukudi District.
60. The Headmaster,
Government High School,
Neithalur,
Karur District.
61. The Headmaster,
NPR Government Higher Secondary School,
Ayyampalayam,
Dindigul District.
62. The Child Development Project Officer,
Arimalam,
Pudukottai District.
63. The Headmaster,
Government Girls Higher Secondary School,
Kovilpatti,
Thoothukudi District.
64. The Assistant Elementary Educational Officer,
Palayamkoatti,
Tirunelveli District.
65. The District Project Nutrition Officer,
Madurai.
66. The District Project Officer,
Thiruparankundram,
Madurai District.



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67.The Headmaster,
Government Higher Secondary School,
Erasakkanaickanur,
Theni District.

68.The Block Development Officer,
Vedasandur,
Dindigul District.

... Appellants

Vs.

- 1.A.Lissy Nirmala
- 2.K.Kanagabai
- 3.J.Rani Mabel
- 4.T.Banumathi
- 5.M.Arunachalavadivu
- 6.S.Pechiammal
- 7.P.Ranjitham
- 8.K.Pappathi
- 9.V.Rajasulochana
- 10.S.Pandiammal
- 11.P.Kamalam
- 12.S.Valli
- 13.T.Meenakshi
- 14.M.Leelavathy
- 15.T.S.Bhavani
- 16.M.Rajalakshmi
- 17.M.Parameswari
- 18.A.Muthunagarani
- 19.A.Arul
- 20.S.Thenmozhi
- 21.K.Rajeswari
- 22.S.Rajalakshmi
- 23.S.Ramani
- 24.K.Indirani
- 25.C.Silambuselvi
- 26.S.Vijayalakshmi
- 27.A.Subbulakshmi



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- 28.R.Rani
- 29.R.Malliga
- 30.S.Rajeswari
- 31.A.Siriya Pushpam
- 32.Y.Mariaselvam
- 33.S.Chellathai
- 34.B.Pushpa
- 35.P.Sornam
- 36.Jeyamani
- 37.V.Vasanth
- 38.P.Bakkiyam
- 39.A.Saroja
- 40.R.Kousalya
- 41.R.Agasthiya Mary
- 42.Rajeswari
- 43.K.Somasundaram
- 44.R.Swaminathan
- 45.K.Perumal
- 46.L.Unnamalai
- 47.T.Vijayadevi
- 48.N.Paramasivan
- 49.S.Pitchai
- 50.S.Uthiralakshmi
- 51.S.Rosita Vasanthi
- 52.A.R.Ganapathi Sundaram
- 53.K.Renganathan
- 54.S.Geetha
- 55.R.Jeyaraj
- 56.A.Jayalakshmi
- 57.G.Sarojini Chandra
- 58.P.Pushpavalli
- 59.V.Vimala Devi
- 60.P.Rajeswari
- 61.R.Balukannu
- 62.D.Malliga
- 63.R.Sathyanesan
- 64.S.Krishnaveni
- 64.J.Annal Pushpa Rajathi
- 66.G.Lalitha



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67.M.Kannagi
68.S.Banumathi
69.S.Guruvalakshmi
70.S.Mariaselvam
71.A.Nirmala
72.D.Janakiammal
73.K.Vijayalakshmi
74.V.Gomathi
75.T.Kalavathy

... Respondents

Prayer: Writ Appal is filed under Clause 15 of Letter Patent against the order passed by this Court in W.P.(MD).No.14097 of 2013, dated 26.08.2013.

For Appellants : Mr.A.K.Manikkam
Additional Government Pleader
For R1 to R8, R12 to 41,
R43 to R75 : Mr.R.Subrmanian
For R9 to R11 : Mr.A.S.Muniyarajan
For R42 : Mr.S.Jessimathul Fathima

J U D G M E N T

(Judgment of the Court was delivered by **V.BHAVANI SUBBAROYAN,J.**)

The State Government has filed this writ appeal against the order passed by this Court in W.P.(MD).No.14097 of 2013, dated 26.08.2013, wherein the petitioners have sought for a direction to the respondents to count



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50% of the petitioners' Noon Meal/Anganwadi services for pensionary benefits

and to award pension.

2. According to the writ petitioners, they were originally appointed as Noon Meal Organisers in the Schools and Child Welfare Organisers in Anganwadi by the competent authority in the year 1980. Subsequently, they were absorbed as B.T. Assistants, Rural Welfare Officers and Child Nutrition Supervisors and they were retired from service. Since they have been absorbed in the regular posts at the fag end of their career, they served only few years in the regular Government service. As per Rule 11 (2) of the Pension Rules, 50% of contingency services should be taken into account for the purpose of pension, if the employee subsequently absorbed in regular service and the Government have issued G.O.(Ms.).No.408, Finance Department, dated 25.08.2009 and counted 50% honorarium, daily wages, consolidated pay and non-provincialised services. Hence, the petitioners have filed the writ petition before this Court seeking direction to the respondents to count 50% of the petitioners' Noon Meal/Anganwadi services for pensionary benefits and to award pension. The learned single Judge of this Court disposed of the writ petition, directing the respondents to resubmit the proposals for pension to the Office of the Principal Accountant General, A & B, Chennai, for authorising



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pension, within a period of four weeks from the date of receipt of a copy of that order and the Principal Accountant General was directed to authorise pension and other terminal benefits, based on G.O.(Ms.).No.6, Social Welfare and Nutritious Meal Department, dated 06.01.2010, by counting 50% service rendered by the petitioners in the non-pensionable post along with the regular service within a period of four weeks thereafter. Challenging the same, the present writ appeal has been filed by the State Government.

3. According to the learned Additional Government Pleader, as per Tamil Nadu Pension Rule 11(4) (G.O.(Ms.).No.408, Finance (Pension) Department, dated 25.08.2009), 50% of the services rendered in non-provincialised service, services on consolidated pay, honorarium and daily wages would be counted for those persons, who were absorbed into regular service prior to 01.04.2003. The G.O.(Ms.).No.6, Social Welfare and Nutritious Meal Programme Department, dated 06.01.2010, will not be applicable to the respondents/writ petitioners, since the writ petitioners are not eligible to claim benefit under Rule 11(4) of the Tamil Nadu Pension Rules as the writ petitioners were not absorbed into regular service prior to 01.04.2003. Further, all the respondents/writ petitioners, who were working as Noon Meal Organisers and Anganwadi Workers, were selected and appointed as Teachers,



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Rural Welfare Officers and Child Nutrition Supervisors only after 01.04.2003.

Hence, the respondents/writ petitioners are not entitled to claim benefit under Rule 11(4) of the Tamil Nadu pension Rules and the writ petitioners are entitled to pension only under new Contributory Pension Scheme, which was introduced on and after 01.04.2003. He would further submit that since in G.O. (Ms).No.408 Finance (Pension) Department, dated 25.08.2009, cut off date is fixed as prior to 01.04.2003, in G.O.(Ms).No.6 dated 06.01.2010, which is issued by reading the G.O.(Ms).No.408, no specific cut off date is fixed. The G.O.(Ms).No.6, Social Welfare and Nutritious Meal Programme Department, dated 06.01.2010, will be applicable only to the persons absorbed into regular service prior to 01.04.2003. The Government issued clarification vide G.O. (Ms).No.34, Social Welfare and Nutritious Meal Programme Department, dated 14.03.2013, wherein it is clearly stated that in Para-4 of the G.O.(Ms).N.6, dated 06.01.2010, it is added that absorption should be made prior to 01.04.2003.

4. The learned counsel appearing for the respondents/writ petitioners would submit that even though they are not entitled for pension, similarly placed persons have already filed S.L.P. before the Hon'ble Apex Court and the same is still pending. Hence, the same should be taken into account and similar



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order to be passed.

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5. Heard the learned counsel for the appellants and the learned counsel appearing for the respondents and perused the materials available on record.

6. The Full Bench of this Court, in the case of ***Government of Tamil Nadu vs. R.Kaliyamoorthy*** reported in ***2019 (6) CTC 705***, made it clear that for determination of retirement benefits under Sub-Rule (4) to Rule 11 of the Tamil Nadu Pension Rules, 1978, half of the service rendered by the Government employee in the following capacity shall be counted :-

i. Non-provincialised Services; ii.Consolidated pay; iii.Honorarium; or iv.Daily wage basis.

7. Rule 11 (4) of the Tamil Nadu Pension Rules, 1978, confers an additional benefit to such class of Government servants to include half of the service rendered in the above capacity for determining qualifying service provided their service was regularised before 01.04.2003. Rule 11 (4) by itself is not intended to deny pension to the respondents/writ petitioners if appointment was prior to 01.04.2003 in the cadre post, whether temporary or



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permanent. Rule 11 (4) merely provides a method for determining the “qualifying service” for Government employees, who were absorbed into service before cut-off date of 01.04.2003. The significance of Rule 11 (4) is to bring the service of a Government employee/servant within the realm of qualifying service to count half of the service rendered under the State Government in non-provisionalised service, consolidated pay, honorarium or daily wages basis before 1st April 2003 for retirement benefits, if the absorption to service was before 01.04.2003. The Government employee/servant appointed in a cadre post before 01.04.2003, as per the Rules whether in temporary or permanent capacity to include 50% of the service rendered in (i) non-provincialised services; (ii) Consolidated pay; (iii) honorarium; or (iv) daily wage basis along with regular service subject to conditions stipulated therein. For instance, if a Government employee/servant was appointed and absorbed between the cut off dates i.e., 01.01.1961 and 01.04.2003, then he/she will be entitled to include half of the service rendered under the State Government in (I) non-provincialised services; (ii) Consolidated pay; (iii) honorarium; or (iv) daily wage basis into his/her services for determination of qualifying service.

8. In Paragraph No.45 of the said judgment, the Full Bench of this Court held as follows:



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“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 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.



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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."

9. In view of the above said judgment rendered by the Full Bench of this Court, this Court is inclined to allow the appeal filed by the State Government and if the similarly placed respondents are succeeding before the Supreme Court, then it is left open to the respondents to approach the competent authorities, in accordance with law.

10. In the result, this Writ Appeal is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

[V.B.S.,J.] & [K.K.R.K.,J.]

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**V.BHAVANI SUBBAROYAN,J.
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