



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED : 09.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.21349 of 2024**

Neelambaran

... Petitioner

Vs.

1.State of Tamil Nadu,  
Rep. By Secretary,  
Public Works Department,  
St. George Fort, Chennai – 600 009.

2.The Chief Engineer,  
Water Resource Organisation,  
Public Works Department,  
Chepauk, Chennai – 600 005.

3.Executive Engineer,  
Water Resource Organization,  
Public Works Department,  
Kodaiyar Basin Division,  
P.W.D Office Road, Nagercoil,  
Kanyakumari District – 629 001.

4.Assistant Executive Engineer,  
Water Resource Organization,  
Public Works Department,  
Pattanamkal Sub Division,  
Kuzhithurai & Post,  
Kanyakumari District.

... Respondents



PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4<sup>th</sup> respondent on 05.07.2024 in Ka.No. 88/2/2024 and quash the same as illegal and issue further direction to the respondents to calculate the 50 percentage of petitioner's temporary service period from 10.11.1993 to 18.10.2007 as the qualifying service along with the regular service period from 19.10.2007 to 28.02.2023 and grant pension as per G.O.No.127, dated 11.04.2007 and G.O.No.408, dated 25.08.2009 Finance (Pension) Department with all consequential monetary benefits with arrear with in a period that may be stipulated by this Court.

For Petitioner : Mr.V.H.S.Prathap

For Respondents : Mr.S.Shaji Bino  
Special Government Pleader

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### **ORDER**

The instant writ petition has been filed by a Mazdoor who was working in the Public Works Department and who attained superannuation on 28.02.2023, seeking to challenge the order dated 05.07.2024, wherein the request of the petitioner to enroll himself under the old pension scheme has been rejected.



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2.The present writ petition has been filed seeking a prayer to reckon 50% of the petitioner's temporary services between 10.11.1993 to 18.10.2007 as the qualifying service along with the regular service period from 19.10.2007 to 28.02.2023 and grant pension as per G.O.Ms.No.127, dated 11.04.2007 and G.O.No.408, Finance(Pension) department, dated 25.08.2009.

3.A perusal of G.O.Ms.No.127, Finance(Pension)department, dated 11.04.2007, reveals that the said Government order is applicable only for those employees whose services have been regularised prior to 01.04.2003. In the present case, admittedly, the petitioner services were regularised in the cadre of Mazdoor under G.O.Ms.No.334/PW(C2) department, dated 19.10.2007. The Hon'ble Full Bench of our High Court in a judgment of ***the Government of Tamilnadu vs. R.Kaliyamoorthy*** reported in ***2019 (6) CTC 705 in paragraph No.45*** has held as follows:-

*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 W.A.No.158 of 2016 etc., batch proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003.*



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(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 W.A.No.158 of 2016 etc., batch 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."*



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4. In view of the judgment of the Hon'ble Full Bench as well as Government Orders, it is clear that 50% of the petitioner's temporary services could be calculated for reckoning the pensionary benefits only if his services were regularised prior to 01.04.2003. In the present case, admittedly, the petitioner's services have been regularised after 01.04.2003 and therefore, the benefits of the said Government orders are not applicable to the writ petitioner.

5. In view of the above said facts, there are no merits in the writ petition. Accordingly, this writ petition stands dismissed. No costs.

**09.09.2024**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes / No  
RJR



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To

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**R.VIJAYAKUMAR, J.**

RJR

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