



W.A.(MD)No.910 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**

AND

THE HONOURABLE **MR.JUSTICE K.K. RAMAKRISHNAN**

W.A.(MD)No.910 of 2017

and

C.M.P.(MD)no.6112 of 2017

- 1.The State of Tamilnadu,
Rep.By its Secretary,
Forest and Environment (FR-2) Department,
Secretariat, Chennai-600 009.
- 2.The Principal Chief Conservator of Forest,
Head of Forest Forse,
Panagal Buildings,
Saaidapet, Chennai.
- 3.The Prinicipal Chief Conservator of Forest
/ Chief Wildlife Warden,
Saaidapet, Chennai.
- 4.Field Director / Chief Conservator of Forest,
Project Tiger,
Kalakkad Mundanthurai Tiger Reserve,
Ambasamuthairam.



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5. Deputy Director / Wildlife Warden,
Project Tiger, Kalakkad Mundanthurai Tiger Reserve,
Ambasamuthairam.

6. Forest Range Officer,
Ambasamuthuram Range,
Project Tiger,
Tirunelveli District.

...Appellants

/Vs./

1. Abathamuthu

2. The Principal Accountant General Officer,
Accountant General Office,
Teynampet Chennai – 600 018.

...Respondents

PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to
allow the writ appeal and to set aside the order passed by this Court in
W.P.(MD)No.21333 of 2016 dated 08.11.2016.

For Appellants	: Mr.A.K.Manikkam Special Government Pleader
For Respondents	: No appearance (R1) Mr.P.Gunasekaran (R2)



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JUDGMENT

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

The first respondent, as the writ petitioner, has filed the writ petition seeking issuance of a Writ of Mandamus to direct the respondents 1 to 6 therein to count half of the service rendered by him before his absorption on 07.08.2009 along with the regular service as Forest Reserve Watcher from 07.08.2009 to 31.01.2016 and to send the revised pension proposal to the seventh respondent therein and to further direct the seventh respondent to sanction the eligible pension and all other terminal benefits to the petitioner.

2. The Writ Court, by following the earlier orders dated 23.07.2014 made in W.P(MD)No.19159 of 2013 and dated 03.10.2016 made in W.P(MD)No.17483 of 2016, allowed the writ petition. Challenging the same, the present appeal has been filed.



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3. According to the appellants, the writ petitioner / first respondent is not entitled to the said relief as ordered of the Writ Court as the issue has been settled by the Honourable Full Bench of this Court in favour of the appellants / State. The learned Special Government Pleader appearing for the appellants has produced a copy of the Judgment of the Honourable Full Bench of this Court in the case of **Government of Tamil Nadu vs. R.Kaliyamoorthy** reported in **2019 (6) CTC 705**, wherein, the Honourable Full Bench of this Court has passed the following orders:-

(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



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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.

(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. Though the above said Judgment was challenged before the Honourable Supreme Court in SLP (C) Diary No(s).15406 of 2021, the Hon'ble Apex Court has also upheld the view of the Hon'ble Full Bench of this Court in **Government of Tamil Nadu vs. R.Kaliyamoorthy** reported in **2019 (6) CTC 705**.

5. According to the Hon'ble Apex Court, the cut off date i.e. on or after 01.04.2003 in proviso to Rule 2 of the Tamil Nadu Pension



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Rules, 1978 will not *per se* bar a person from getting pension if such a person had joined the service in accordance with the provisions of Tamil Nadu State and Subordinate Service Rules, i.e. in the cadre whether on temporary or permanent basis. Services rendered before the cut off date of 01.04.2003, can be added to the regular service only if the service was regularized before the said date for determining the qualifying service. Therefore, the Hon'ble Apex Court is of the view that there is no need to interfere with the order of the Hon'ble Full Bench of this Court reported in **2019 (6) CTC 705** (cited supra) and accordingly, dismissed that SLPs. The Hon'ble Apex Court further observed that in case the regularization in the instant case had occurred before 01.04.2003, the petitioner shall be entitled to take appropriate proceedings as are open to them in law.

6. In view of the above settled law, we are of the view that the first respondent / writ petitioner is not entitled to count half of the service rendered by the writ petitioner.



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7. In the result, this Writ Appeal are allowed. The order passed by the Writ Court in WP(MD)No.21333 of 2016 dated 08.11.2016 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

(V.B.S.J.) & (K.K.R.K.J.)
06.03.2024

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



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and
K.K. RAMAKRISHNAN, J.

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Judgment made in
W.A.(MD)No.910 of 2017

Dated:
06.03.2024