



WEB COPY



W.A.Nos.2780 & 2821 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2025

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.A.Nos.2780 & 2821 of 2025
and
C.M.P.Nos.22337 & 22888 of 2025

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Rural Development Department,
Fort St.George,
Chennai - 9.

2. The Collector,
Thiruvannamalai Collectorate,
Thiruvannamalai.

... Appellants in both cases

-Vs-

1. S.Navaneetham ... 1st Respondent in W.A.No.2780 of 2025

2. E.Pachiappan ... 1st Respondent in W.A.No.2821 of 2025

3. The Director,
Local Fund Audit Department,
Saidapet Animal Husbandary Campus,
Nandanam,
Chennai - 35.



W.A.Nos.2780 & 2821 of 2025

4. The Commissioner,
Thellar Panchayat Union,
Vandavasi Taluk,
Thiruvannamalai District.

... 2nd & 3rd Respondents in both cases

COMMON PRAYER : Appeals filed under Clause XV of Letters Patent, against the order dated 26.07.2023 in W.P.Nos.10529 & 10530 of 2018.

For Appellants in both cases	:	Mr.Ramanlal Additional Advocate General Assisted by Mr.P.Anandakumar Government Advocate
For Respondents in both cases	:	Mr.S.Ramesh for R1 Mr.E.Vijay Anand Additional Government Pleader for R2 Mr.M.Murali Government Advocate for R3

C O M M O N J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

Though these two writ appeals arise out of two separate orders dated 26.07.2023, but since the issue is one and the same and the findings are also similar to that of each other, both these writ appeals were heard together and are disposed of by this common order.

2. In W.A.No.2780 of 2025, the wife of the employee who is no more, is the first respondent.



W.A.Nos.2780 & 2821 of 2025

WEB COPY

3. In W.A.No.2821 of 2025, the retired employee is the first respondent.

4. In both the cases, the respective private respondents had filed separate writ petitions, i.e., W.P.Nos.10529 & 10530 of 2018. The respective employees were appointed as B-II Siddha Doctors sometime in 1970s'. Thereafter, they had been regularised from 1984. After serving for long years, the employees retired from service on superannuation in 2000 & 2003 and the employee i.e., D.Subramaniam in the first writ appeal, died on 24.12.2009 and the employee, i.e., E.Pachiappan in the second writ appeal is still surviving and getting the pension. As far as the employee in respect of W.A.No.2780 of 2025 is concerned, since the employee died on 24.12.2009 while he was receiving the pension, subsequently the present first respondent, i.e., the spouse of the employee is getting the family pension.

5. It is in this context, the said two writ petitions were filed only to seek a writ of mandamus to extend the benefit of G.O.(Ms)No.408, Finance (Pension) Department, dated 25.08.2009 to these employees.



W.A.Nos.2780 & 2821 of 2025

WEB COPY

6. The import of G.O.(Ms)No.408 dated 25.08.2009 is concerned, as per which since Rule 11(4) of the Tamil Nadu Pension Rules, 1978 has been amended, whereby 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 the Government employees absorbed in regular service before 1st April, 2003 shall be counted for retirement benefits along with regular service, subject to the conditions that have also been mentioned in the amended Rule 11(4) of the Tamil Nadu Pension Rules.

7. Herein the case in hand, before such regularisation, they had been working either under consolidated pay or daily wage basis and thereafter, since they have got regularised only from the date of regularisation, their service has been taken into account for the purpose of pensionable benefits.

8. However by virtue of G.O.(Ms)No.408 dated 25.08.2009, 50% of the earlier service rendered by the respective employees either on daily wage basis or consolidated pay which since should have been taken into account for the purpose of combined pensionable service, the same since has not been taken into account by the pension paying authorities as well as the employer, those writ petitions were filed seeking such a mandamus as prayed therein.



9. In fact the issue raised in those writ petitions is not a new one for adjudication, as the same has already been raised in a number of cases where such an adjudication has already been made by the Court especially atleast in two or three Division Bench judgments and the issue has already been settled, those judgments in fact have been quoted by the learned Judge in the order impugned dated 26.07.2023. The relevant portion of the order passed by the writ Court is extracted hereunder for ready reference:

"9. It was contended by the respondents therein that the writ petitioner therein was on part time basis. He was Rural Medical Officer prior to 01.10.1984. It was contended that since that service was part time, the Government Order No.408 or pension Rules, Rule 11 (4) would not be applicable to him. However, the Division Bench had held otherwise and had very categorically stated that though even categorization of any employee as part time would not come to the rescue of the respondents and they would be bound to pay pension for one and half services rendered prior to regularization on 01.10.1984. After examining a catena of decisions, the Division Bench finally held as follows:~

"10. In the light of the clear findings in the earlier decisions of this Court referred supra and in the absence of any materials placed before this Court to the contrary, it is not possible to accept the



self-serving claim of the Respondents that the services of the Rural Medical Officers like the Petitioner prior to 01.10.1984 were engaged on part time basis. We must also point out here that the Hon-ble Supreme Court of India in State of Uttar Pradesh vs Arvind Kumar Srivastava [(2015) 1 SCC 347] has reiterated that when a particular set of employees have been given relief by the Court, all other identically situated employees should be treated alike by extending that benefit and not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. In view of the aforesaid dictum, the Petitioner is entitled to the same benefit, which has been granted in respect of similarly placed persons in the decisions referred supra.

11. The order passed by the Writ Court is in consonance with the earlier orders passed by the Division Benches of this Court and we do not find any reason to differ from the same.?"

10. Thus, the writ appeal filed was dismissed and it directed that the benefit of G.O.No.408, Finance (Pension) Department dated 25.08.2009 should be extended to the respondent therein / writ petitioners.

11. Since the issue is no longer res integra, I have extracted only the defining portion of the aforementioned judgment in the writ appeal. But it is to be noted that the



WEB COPY



W.A.Nos.2780 & 2821 of 2025

said conclusion was based on the catena of judgments namely (i) A.Muthuselvam v State of Tamil Nadu [W.P.No.30003 of 2004 etc batch dated 19.04.2006], (ii) J.Krishnamoorthy v State of Tamil Nadu [W.A.No.922 of 1995 dated 01.02.1996] and (iii) The Assistant Director, Local Fund Audit Department v K.Dhanapalan [W.A.No.1618 of 2012 dated 08.10.2012].

12. Since consistently the courts have recognized that Rural Medical Officers are discharging were full time work and cannot be categorized as part time thereby negating the claim for the application of G.O.No.408, Finance (Pension) Department dated 25.08.2009 , I would follow the same ratio laid down and allow the writ petition. No costs. Necessary proceedings in this regard may be issued by the respondents within a period of twelve weeks from the date of receipt of a copy of this order."

10. As 50% service rendered by the respective employees either on daily wage basis or consolidated pay basis prior to the regularisation can only be treated as service for the purpose of calculating pensionable benefits, that too by taking 50% of such services.

11. The arguments or the contentions on behalf of the employer before the writ Court that since the service was only considered to be a Part-time service, they are not entitled to get such benefit of 50% of the past service by virtue of



W.A.Nos.2780 & 2821 of 2025

G.O.(Ms)No.408 is concerned, that contention raised on behalf of the employer before the writ Court has been rejected through the impugned order, of course rightly, the reason being that, it has also been settled already, that kind of service rendered by the Siddha Doctors appointed earlier can only be treated as a Full-time service, not as a Part-time service.

12. The only difference was that they were either put under consolidated pay or daily wage basis that would not change the situation in view of the amendment having been made under Rule 11(4) of the Tamil Nadu Pension Rules by virtue of G.O.(Ms)No.408 dated 25.08.2009.

13. Therefore, we do not find any infirmity in the said approach of the learned Judge in coming to such a conclusion in allowing those writ petitions through the impugned order.

14. Resultantly, we do not find any plausible reasons to interfere with the order made, as a result of which both the Writ Appeals have to fail, accordingly they are dismissed. The needful as directed by the writ Court by virtue of this dismissal order confirming the order passed by the writ Court shall be undertaken by the appellant Department in calculating 50% of the said service prior to 1984 also as a eligible service for the pensionable benefits, accordingly



W.A.Nos.2780 & 2821 of 2025

the pensionary benefits as well as the family benefits as the case may be for these two private respondents are to be calculated and be paid within a period of three months from the date of receipt of a copy of this judgment. However there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(R.S.K., J.) (H.C., J.)
22.09.2025

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

1. The Director,
Local Fund Audit Department,
Saidapet Animal Husbandary Campus,
Nandanam, Chennai - 35.
2. The Commissioner,
Thellar Panchayat Union,
Vandavasi Taluk,
Thiruvannamalai District.
3. The Secretary to Government,
State of Tamil Nadu,
Rural Development Department,
Fort St.George,
Chennai - 9.
4. The Collector,
Thiruvannamalai Collectorate,
Thiruvannamalai.



WEB COPY



W.A.Nos.2780 & 2821 of 2025

**R.SURESH KUMAR, J.
and
HEMANT CHANDANGOUDAR, J.**

vji

**W.A.Nos.2780 & 2821 of 2025
and
C.M.P.Nos.22337 & 22888 of 2025**

22.09.2025