

W.P. Nos. 18851 & 18856 of 2019

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 18.02.2025**

**CORAM**

**THE HON'BLE Ms. JUSTICE R.N.MANJULA**

**W.P. Nos. 18851 & 18856 of 2019**

M.Arumugam

... Petitioner in W.P. Nos. 18851/2019

M.Raju

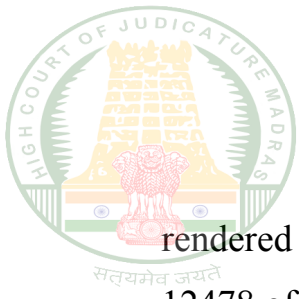
... Petitioner in W.P. Nos. 18856/2019

-VS-

1. The Government of Tamil Nadu  
Rep. by Principal Secretary to Government  
Health & Family Welfare Department  
Secretariat, Chennai-600009.
2. The Director of Public Health &  
Preventive Medicine  
Chennai-600006.
3. The Director of Medical & Rural  
Health Services, Chennai-600006.
4. The Director of Medical & Rural  
Health Services (ESI)  
Chennai-600006.

... Respondents in both WPs

**Common Prayer:-** Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue Writs of Certiorarified Mandamus, calling for the records on the file of the first respondent in connection with the Letter Nos.2577/AA2/2015-12 & No.2577/AA2/2015-13 dated 12.09.2016, to quash the same and direct the respondents to take into account the petitioner's entire service in the Survey and Land Records Department from 01.12.1983 onwards along with my service in Medical and Rural Health Service Department from 1995 till their superannuation and pension benefits in the light of the judgment



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rendered by this Court in W.A. No. 550 of 2015 against W.P. Nos. 12477 and 12478 of 2007 dated 20.04.2018.

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For Petitioner : Mr.M.Ravi (in both WPs)

For Respondents : Mr.K.Tippu Sulthan, GA (in both WPs)

### COMMON ORDER

These writ petitions have been filed challenging Letter Nos. 2577/AA2/2015-12 & No.2577/AA2/2015-13 dated 12.09.2016 of the first respondent and for a direction to the respondents to take into account the petitioners entire service in the Survey and Land Records Department from 01.12.1983 onwards along with my service in Medical and Rural Health Service Department from 1995 till their superannuation and pension benefits in the light of the judgment rendered by this Court in W.A. No. 550 of 2015 against W.P. Nos. 12477 and 12478 of 2007 dated 20.04.2018.

2. Heard Mr.M.Ravi, learned counsel for the petitioners and Mr.K.Tippu Sulthan, learned Government Advocate for the respondents and perused the materials placed on record, apart from the pleadings of the parties.

3. The petitioner was initially appointed as Junior Assistant temporarily under Rule 10(a)(1) of General Rules of Tamil Nadu State and Subordinate



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Service in the Medical and Rural Health Department. The services of the petitioners were regularized in the Medical and Rural Health Department with effect from 29.12.1995. The petitioners retired from service on 31.01.2014 and 30.06.2014 respectively. On 12.09.2016, the first respondent passed orders stating that the petitioners entire past services cannot be taken into account for computing their qualifying services for the pensionary benefits. Hence, the petitioners filed review petitions before the first respondent to reconsider their claim to extend the similar benefits to revise their retirement and pensionary benefits and that the benefits conferred upon the respondents in W.A. Nos. 550 of 2015, but so far no order has been passed in the review petitions.

4. The learned Government Advocate for the respondents submitted that as per the Rule 11(4) of the Tamil Nadu Pension Rules, 1978, half of the service rendered under the State Government in non-provincialized service, consolidated pay, honorarium or daily wages basis on or after 1<sup>st</sup> January 1961 in respect of Government employees absorbed in regular service before 1<sup>st</sup> April 2003 shall be counted for retirement benefits along with regular service. So, it is submitted that the above benefit can be extended to the petitioners and the petitioners cannot expect their entire past services to be included as qualifying services for the purpose of pension. The petitioners claim parity with the



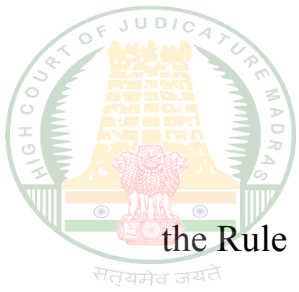
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respondents in W.A. No. 550 of 2015 despite the petitioners are not similarly

placed as that of the respondents in W.A. No. 550 of 2015. On the above said writ appeal, the issue involved was to regularize the services of the individuals who have been working under consolidated pay and on whose benefits the Government Order has been issued. So, the above order is irrelevant to the issue involved in these cases.

5. The petitioners initial appointment was a Surveyor in the Survey and Land Records Department for a consolidated pay and that spell was across the period between 26.11.1983 to 01.12.1983. Thereafter, the petitioners were appointed temporarily as Junior Assistants on 08.12.1995 and 29.12.1995 respectively. The petitioners services have been regularized only from 29.12.1995 and 28.12.1995 respectively and the said fact is not in dispute.

6. The issue raised in these writ petitions filed by the petitioners are not about their date of regularization. The petitioners have very much accepted that 29.12.1995 and 28.12.1995 are their date of giving effect to the regularization. In such case, the petitioners can only invoke Rule 11(4) of the Tamil Nadu Pension Rules, 1978, which would give the benefit of adding half of their past services as qualifying services for pensionary benefits. For the sake of clarity,



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the Rule 11(4) of the Tamil Nadu Pension Rules, 1978 is extracted hereunder:

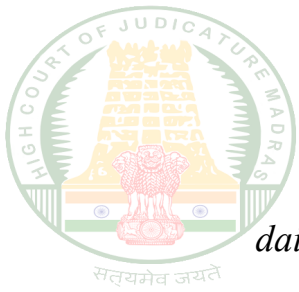
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“(4) [Half of the service rendered under the State Government in non-provincialised service, consolidated pay, honorarium or daily wages basis on or after 1st January 1961 in respect of Government -employees absorbed in regular service before 1st April 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 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. Provided that this sub-rule is applicable to all employees who rendered service under the State Government in non-provincialised service, consolidated pay, honorarium or



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*daily wages basis on or after 1st January 1961 and absorbed in regular service before 1st April 2003. Provided further that wherever there was break in service before their absorption in regular service before 1st April 2003, the same shall be specifically condoned by the orders of the Head of Departments, in which the employees were regularly absorbed and such period of break, shall not count for the purpose of pensionary benefits.] [Rule 11(4) and Proviso added - G.O.Ms.No.41, Finance (Pension) Department, dated 09-02-2010.]”*

7.As the respondents are also aware of the said Rule, and they are very much willing to extend the benefits under Rule 11(4) of the Tamil Nadu Pension Rules, 1978 to the petitioners, they have been regularized before the cut-off date, i.e., 01.04.2003. The petitioners have already been given with the said benefits in the impugned order itself, the petitioners cannot have any grievance. The petitioners have misconstrued the rule to claim whole of their services to be included as qualifying services, which is not permissible under Rule 11(4) of the Tamil Nadu Pension Rules, 1978. As the petitioners have already been given with the relief for which they have been entitled, these writ petitions are liable to be dismissed.



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WEB COPY 8. With the above observations, these writ petitions are dismissed. No costs.

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Index: Yes/No

Index: Yes/No

Internet: Yes/No

Speaking /Non-speaking order

*Maya*

To

1. The Principal Secretary to Government of Tamil Nadu  
Health & Family Welfare Department  
Secretariat, Chennai-600009.
2. The Director of Public Health &  
Preventive Medicine  
Chennai-600006.
3. The Director of Medical & Rural  
Health Services, Chennai-600006.
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**R.N.MANJULA, J.**

*Maya*

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