



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-04-2025

WEB COPY

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

WP No. 21627 of 2019

1. D.Tamizh Selvi
Staff Nurse, Government General
Hospital, Arakkonam, Vellore District-
631 001.

Petitioner(s)

Vs

1. The Accountant General
Office of the Accountant General, 261,
Annasalai, Chennai 600 018.

2.The State of Tamil Nadu
Rep. by its Secretary Department of
Finance (Pension) Fort St. George,
Chennai 600 009.

3.The Director of Medical Education
Directorate of Medical Education, 162,
Poonamalle High Road, Kilpauk,
Chennai 600 010.

4.The Additional Director of
Medical Education, Directorate of
Medical Education, 162, Poonamalle



High Road, Kilpauk, Chennai 600 010.

5. The Director of Institute of Child
Health and Hospital for Children, Tamil
Salai, Egmore, Chennai 600 008

6. The Director of Medical and Rural
Health Services, DMS Complex, No.
361, Anna Salai Teynampet, Chennai
600 006

7. The Additional Director of Medical
and
Rural Health Services (Medical), No.
361, Anna Salai Teynampet, Chennai
600 006

8. The Joint Director of
Medical and Health Services, Office of
The Joint Director of Medical and
Services, Sankaranpalayam, Velapadi,
Arani Road, Vellore, Vellore District.

9. The Medical Officer
Government General Hospital,
Arakkonam, Vellore District 631 001.

Respondent(s)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuing a writ of mandamus to direct the respondents to place the petitioner under the old pension scheme based on the initial date of appointment of the petitioner as Staff Nurse on contract basis on 25.09.2001 in the 7th Respondent vide R. No. 82805 / N1 / 2 / 2001 and to refund subscription already made by



the petitioner towards new pension scheme in the light of the judgment of Honble Division Bench reported in 2014 (2) CTC 777 within stipulated period of time and further or other orders as this Honble Court may deem fit and proper in the circumstances of the case.

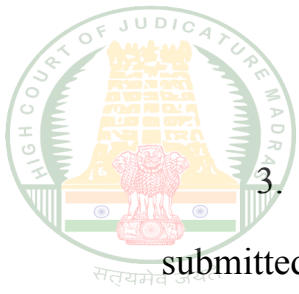
For Petitioner(s): M/s.Meera Gnanasekar

For Respondent(s): Mrs.J.Sree Vidya
Sc PAC For R1
Mr.T.Cheziyan
Additional Government Pleader
for R2 to R9

ORDER

This writ petition has been filed to direct the respondents to place the petitioner under the old pension scheme based on the initial date of appointment of the petitioner as Staff Nurse on contract basis and to refund subscription already made by the petitioner towards New Pension Scheme in the light of the judgment of Honble Division Bench reported in 2014 (2) CTC 777.

2. The petitioner has been appointed on 15.11.2001 as Staff Nurse in the Government Hospital on contract basis. The petitioner's services have been regularized and she has been absorbed in regular services with effect from 01.06.2004. The petitioner gave a representation to the respondents to consider her services rendered during the contractual service as qualifying service for the purpose of pensionary benefit. But the said representation has not been considered so far. Hence the present writ petition has been filed.



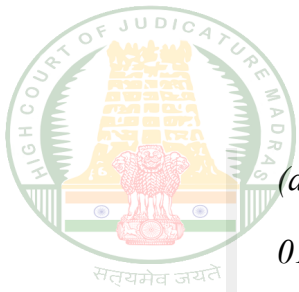
3. Mr.T.Chezhiyan, the learned counsel for the respondents 2 to 9, submitted that the petitioner has already been given with a reply by the first respondent stating that she is not entitled to the relief as claimed by her as her regularization has been done subsequent to the cut off date on 01.04.2003. Hence, it is stated that the petitioner will be covered under New Contributory Pension Scheme and she has not challenged the said order denying the relief claimed. In this regard the law has been settled already by the Full Bench of this Court in the case of ***Government of Tamil Nadu Vs. R.Kaliyamoorthi reported in 2019 (6) CTC 705***, by holding that:

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



WEB COPY

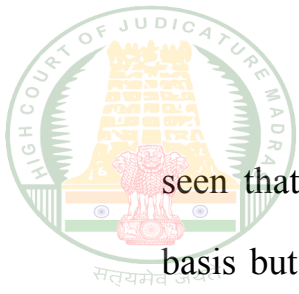
(a) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.

(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. By citing the above judgment, It is submitted by the learned Additional Government Pleader, that as per the said order the petitioner is not entitled to count her past services because he has been working under contractual basis and not on temporary basis.

5. Ms.Meera Gnanasekar, the learned counsel for the petitioner, submitted that similarly placed persons have already filed a writ petition in W.P.(MD)No.5800/2015 and the petitioner therein has been given with the relief as prayed.

6. The Full Bench Judgment in ***R.Kaliyamoorthi's*** case (cited supra) has been passed consequent to the order referred by the petitioner in the W.P.(MD)No.5800/2015 and hence that cannot come to the rescue of the petitioner. Even though the petitioner is called as a contractual employee it is



seen that her services have been availed by the Government not on contract basis but on temporary basis from 15.11.2001. Hence the petitioner can claim 50% of her services.

7. As the petitioner has been appointed prior to 01.04.2003 on temporary basis in terms of Rule 10 (a) (i) of the Tamil Nadu State and Subordinate Service Rules, she will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978. Hence, I feel a direction should be given to the respondents to consider the representation of the petitioner and pass orders afresh in terms of the law settled down by the Full Bench in *Kaliamoorthy* case and pass orders afresh within a period of four weeks from the date of receipt of a copy of this order.

8. Accordingly, this writ petition is disposed with a direction to the respondents to consider the representation of the petitioner and pass orders afresh in terms of the law settled down by the Full Bench of this Court in *R.Kaliamoorthi's case* (cited supra), within a period of four weeks from the date of receipt of a copy of this order.

08-04-2025

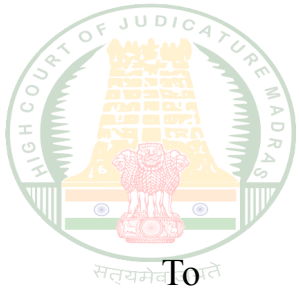
Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

bkn



WEB COPY

1. The Accountant General

Office of the Accountant General, 261,
Annasalai, Chennai 600 018.

2. The State of Tamil Nadu

Rep. by its Secretary Department of
Finance (Pension) Fort St. George,
Chennai 600 009.

3. The Director of Medical Education

Directorate of Medical Education, 162,
Poonamalle High Road, Kilpauk,
Chennai 600 010.

4. The Additional Director of

Medical Education, Directorate of
Medical Education, 162, Poonamalle
High Road, Kilpauk, Chennai 600 010.

5. The Director of Institute of Child

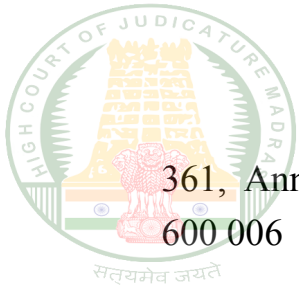
Health and Hospital for Children, Tamil
Salai, Egmore, Chennai 600 008

6. The Director of Medical and Rural

Health Services, DMS Complex, No.
361, Anna Salai Teynampet, Chennai
600 006

7. The Additional Director of Medical
and

Rural Health Services (Medical), No.



WP No. 21627 of 2019



361, Anna Salai Teynampet, Chennai
600 006

WEB COPY

8. The Joint Director of
Medical and Health Services, Office of
The Joint Director of Medical and
Services, Sankaranpalayam, Velapadi,
Arani Road, Vellore, Vellore District.

9. The Medical Officer
Government General Hospital,
Arakkonam, Vellore District 631 001.



WEB COPY

WP No. 21627 of 2019



R.N.MANJULA J.

bkn

WP No. 21627 of 2019

08-04-2025