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W.P.No.41216 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.41216 of 2025
and W.M.P.No.46166 of 2025

1. K.G.Sivasubramanian
2. M.Chokkalingam
3. R.Paneerselvam
4. S.Nadimuthu
5. V.Murugaiyan

...Petitioners

-Vs-

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

2. The Principal Accountant General,
(Accounts and Entitlement),
No.361, Annasalai,
Chennai – 600 018.

3. The District Collector,
Office of the District Collector,
Thiruvarur District,
Thiruvarur.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents herein to count 50% of the service rendered on consolidated pay in the post of Village Karnam along with the service rendered in the post of Village Administrative Officer as qualifying service for the purpose of pension



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and grant to all consequential benefits on the based on the representations dated 20.06.2024, 22.08.2024, 08.01.2025 and 04.09.2025 within stipulated time may be fixed by this Court.

For Petitioners : Mr.R.Murugabharathi

For Respondents : Mr.K.Surendran
Additional Government Pleader

ORDER

This writ petition has been filed for direction directing the respondents to count 50% of the service rendered on consolidated pay in the post of Village Karnam along with the service rendered in the post of Village Administrative Officer as qualifying service for the purpose of pension and grant to all consequential benefits.

2. The petitioner was initially appointed as Village Karnam and Musif at Villangadu Village, Thiruvarur District. After abolition of the post of Village Karnam, he was appointed to the post of Village Administrative office on 11.08.1982. Thereafter, due to attainment of superannuation, he was retired from service on 31.05.2006. Now the petitioner submitted representation to count 50% of his service rendered as Village Karnam from the date of appointed viz., 29.04.1977 till 10.08.1982 for the purpose of pension and other consequential benefits.



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3. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

4. This issue has already been dealt with in detailed manner by the Hon'ble Division Bench of this Court at Madurai Bench in a batch of Writ Appeals in W.A.No.1629 of 2018 etc., by an order dated 26.02.2021.

The relevant portion is as follows :-

“18.We have already took note of the relevant Rules. A perusal of the Tamil Nadu Village Servants Conduct Rules, 1983, clearly states the status and position of Writ Petitioners. Certainly, they come under the definition 'Village Assistants'. However, Rule 3, which facilitate a Village Servant to take job of part-time work or occupation, makes it abundantly clear that he is only a part time Government Servant. Similarly, Rule 14 of Tamil Nadu Village Servants Service Rules, 1980, which gives a succour to a part-time Government servant, as that of the respondents, gives a specific compensation. A conjoint reading of the aforesaid Rules would show that a Village Servant/Assistant was having a part- time service alone.

19.Now, let us go into the subsequent Government Orders passed, followed by Rules viz., Tamil Nadu Village Assistants Pension Rules, 1995. We have already



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discussed the Government Order, which came into existence only at the instance of the respondents Village Assistants, who were working in such capacity as part timers. For the first time, under the said Government Order, a regular time scale of pay came into existence. This is a very important point to be noted with respect to the status of the respondents as part-time Talayaris and they have been brought into regular Government Service. Therefore, regular time scale of pay was fixed with effect from 01.06.1995. The subsequent Rules have been framed to take care of their interest. We may note that Rule 2 to reiterate the aforesaid position, which does not create any doubt in our mind. Under Rule 7, the eligibility of a Village Assistant would arise only when a Village Assistant renders qualifying service. Similarly, under Rule 4(a), the length of service for calculation of pension and gratuity, temporary, officiating and permanent (full-time) service alone should be reckoned as qualifying service. Now, this Rule has been given a go-bye. Resultantly, what the respondents (Talayaris) seek is a relief contrary to their regularisation order, by which, they were brought under the regular time scale of pay with effect from 01.06.1995 and the Rules framed thereafter. Therefore, they cannot approbate and reprobate and it is only on their request, part-time service was converted into full-time service prospectively, creating the status of regular post with regular time scale of pay.



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20. *Much reliance has been made to Rule 11(a) read with Rule 2(o) of the Tamil Nadu Pension Rules, 1978. These Rules are not applicable to the services of Talaiyaris, being in non-pensionable establishment and part-time and that too not in a cadre post. As per Rule 11(4), there must be whole-time employment. Similarly, there shall not be any break, which is in existence. Insofar as the other set of employees are concerned, viz., Village Officers (Karnams), we may appropriately quote Rule 16 of the Tamil Nadu Village Servants Service Rules, 1980. Even as per Rule 16 of the said Rules, the post of Talaiyari being-non pensionable, they are not entitled.*

21. *We are quite convinced with the entitlement of the respondents in the light of the discussions made. Our above said conclusion is also strengthened by the judgment of the Full Bench of this Court in Government of Tamil Nadu and others v. R.Kaliyamoorthy reported in 2019(6) CTC 705, which could be seen through the following paragraphs:*

“29. Having regard to the above rule position, we proceed to examine the claim of the writ petitioners. Admittedly, the writ petitioners herein were appointed in various departments of the Government in non-provincialised services, on consolidated pay, honorarium or daily wage basis, on contingency basis. They were not appointed against any sanctioned post or regular post.

For having rendered such service, they were paid daily



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wage or wages from the contingency fund. To be specific, the writ petitioners were not appointed in a cadre post whether on temporary or permanent basis against vacancies which were duly notified. They were appointed on daily wage basis prior to 01.04.2003 on various dates. The service of some of the petitioners were also admittedly regularised after 01.04.2003 in a cadre post as and when permanent vacancies arose or had been notified. The writ petitioners therefore claimed that they are entitled to count half of the service rendered by them on daily wage basis or as contingent employees or on honorarium basis or in non provincialised services etc. along with the regular service as has been contemplated under Rule 11 (4). The petitioners also claimed equity on par with one Murugan, in whose favour, the Government passed G.O. (D) No.332, Environment and Forest Department dated 19.11.2008 by which the service rendered by the said Murugan, on daily wage basis for about 20 years was ordered to be counted along with his regular service rendered by him till his retirement on 30.09.2005. In other words, even though the service of the said Murugan was regularised after 01.04.2003, yet, as a special case, the Government issued G.O. (D) No.332, Environment and Forest Department dated 19.11.2008 and ordered to count half of the service rendered by him on daily wage basis along with his regular service. This had apparently sparked and/or kick-started a volley of writ petitions to be filed before this



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Court at the instance of persons similarly placed like the writ petitioners in this batch. This Court had also, based on the order passed by the Government in G.O. (D) No.332, Environment and Forest Department dated 19.11.2008 directed the Government to count half of the service rendered by the persons similarly placed like the petitioners along with their regular service, purportedly on the ground of equity. The State Government filed writ appeals before the Division Bench of this Court, as against few cases in which such directions were issued by the single Bench.

...

31. On behalf of the writ petitioners, it was contended that the writ petitioners have been temporarily employed with nomenclature such as daily wage employees, on consolidated pay or on honorarium basis etc. and as per Rule 11 (1) the service rendered by them in such temporary employment has to be counted along with the regular service in a cadre post. We wish to observe that the word temporary or officiating service employed in Rule 11 (1) is referable to 'temporary appointment' contemplated under Rule 10 (a) (i) of Tamil Nadu State and Subordinate Services Rules. On a reading of Rule 10 (a) (i), the wordings employed thereof are explicit and clear. A temporary appointment made to a government service is the one which is made in a post borne on the cadre of a service, class or category, meaning thereby such temporary appointment is made in



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an existing vacancy or notified vacancy. Rule 10 (a) (i) further makes the position clear that such appointment is permissible to be made by the appointing authority in case of emergency to fill the vacancy, in public interest. For such appointment, the appointing authority has to form an opinion that the procedural process for appointment to the cadre post will take some time and that such delay would prejudice the public interest. In such circumstances, Rule 10 (a) (i) can be invoked for appointing a candidate on temporary appointment in a sanctioned post. The service of such person, though appointed on temporary appointment can later be regularised by following the due procedure. The significance for invoking Rule 10 (a) (i), apart from public interest, is the existence of sanctioned post or vacancy in a post borne on the cadre of a service, class or category. Thus, Rule 10 (a) (i) cannot be invoked in the absence of an existing vacancy in a cadre post. Therefore, we are of the view that the temporary appointment mentioned in Rule 11 of the Pension Rules, in the realm of Service Law Jurisprudence, is referable only to Rule 10 (a) (i) of the Tamil Nadu State and Subordinate Services. The writ petitioners were however appointed on daily wage basis on payment of honorarium or consolidated pay and did not come within the fold of Rule 10 (a) (i) of the Tamil Nadu State and Subordinate Services Rules. Only the appointments made under the provisions of Rule 10 (a) (i) of the aforesaid Rules alone



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can be considered as temporary appointment. Therefore, the submissions made on behalf of the petitioners relying upon Rule 3 (o) has to be rejected. Admittedly the Writ Petitioners were not appointed invoking Rule 10(a)(i).

...

34. Rule 11 (4) of the Tamil Nadu Pension Rules, 1978 confers an additional benefit to such class of Government servants to include half of the service rendered in the above capacity for determining qualifying service provided their service was regularised before 01.04.2003. Rule 11 (4) by itself is not intended to deny pension to respondents/writ petitioners if appointment was prior to 01.04.2003 in the cadre post, whether temporary or permanent.

35. Rule 11 (4) merely provides a method for determining the ? qualifying service? for government employees who were absorbed into service before cut-off date of 01.04.2003.

36. The significance of Rule 11 (4) is to bring the service of a government employee / servant within the realm of qualifying service to count half of the service rendered under the State Government in non-provisionalised service, consolidated pay, honorarium or daily wages basis before 1st April 2003 for retirement benefits, if the absorption to service was before 01.04.2003. 37. Rule 11 (4) of the Tamil Nadu Pension Rules, 1978 allows a Government employee / servant appointed in a cadre post before 01.04.2003 as per the



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Rules whether in temporary or permanent capacity to include 50% of the service rendered in (i) non provincialised services; (ii) Consolidated pay; (iii) honorarium; or (iv) daily wage basis along with regular service subject to conditions stipulated therein.

38. For instance if a government employee/servant was appointed and absorbed between the cut off dates i.e. 01.01.1961 and 01.04.2003, then he/she will be entitled to include half of the service rendered under the State Government in (i) non-provincialised services; (ii) Consolidated pay; (iii) honorarium; or (iv) daily wage basis into his/her services for determination of qualifying service.

39. On the other hand, if a Government employee / servant was not absorbed between the aforesaid cut off dates, he/she will not be entitled to include half of the service rendered under the State Government in (i) non-provincialised services; (ii) Consolidated pay; (iii) honorarium; or (iv) daily wage basis into his/her services even though such person may be entitled to Government Pension under the Rule if he/she was appointed in a cadre post on or before 01.04.2003 but was absorbed after the said date.

40. For example, if a person is appointed prior to 01.04.2003 in a non-provincialised service or on consolidated pay or on honorarium or daily wage basis and later to a cadre post on temporary basis under Rule 10 (a) (i) of The Tamil Nadu State and Subordinate



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Service Rules before 01.04.2003 and such service is regularised after 01/04/2003, such Government employee is eligible for Government Pension under the Tamil Nadu Pension Rules but at the same time would not be eligible to include half of services rendered in such capacity viz., i) Non-provincialised Services ii) Consolidated pay; iii) honorarium; or iv) daily wage basis to his regular service.

41. Thus, a government servant who may have been appointed before the cut-off date of 31.03.2003 may be entitled to government pension if he satisfies the requirement of qualifying service in Rule 3(o) of the Tamil Nadu Pension Rules, 1978. However, such a person will not be entitled to add half of the past service held in any one of the four capacity mentioned above prior to 01.04.2003 since his regularisation is subsequent to the cut off date. Therefore, only those who were appointed prior to 01.04.2003 whether as temporary appointment but in accordance with Rule 10 (a) (i) alone will be entitled to get pension.

42. The cut off date i.e. on or after 01.04.2003 in proviso to Rule 2 of the Tamil Nadu Pension 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



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only if the service was regularised before the said date for determining the qualifying service. Therefore, in our opinion, it would be appropriate to say that Rule 11 (4) gives the meaning of qualifying service rather than giving significance to cut off date. Therefore, it is clear that only if the appointment is in accordance with the Rules and such appointment is prior to 01.04.2003, 50% of the past service can be added along with the regular service.

...

44. The aforesaid Judgment of the Honourable Supreme Court would squarely apply to this case. Merely because this Court has passed multiple number of orders in favour of some of the similarly placed persons like the writ petitioners, it will not operate as res judicata or it will preclude the State Government from questioning those orders in a parallel or similar proceedings. In such circumstances, we are of the view that the orders, hitherto passed by this Court, both single Bench or the Division Bench will not operate as a bar for maintaining these writ appeals or writ petitions or those orders will not be considered as the one which laid down any binding precedent to be followed in other cases. An order, which was not passed in accordance with the statutory provisions, need not be followed by the Court at the instance of similarly placed persons.”

The sum and substance of the decision rendered, which in our view, is that a Government Servant is



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entitled for reckoning the half of the past services, even while working in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis only when there exists a cadre post. Rule 11 of the Tamil Nadu Pension Rules, 1978, merely facilitate the reckoning of the past services of a Government servants subject to the conditions stipulated therein.

22. Therefore, in view of the law laid down as aforesaid, we have no hesitation in holding that the appeals filed by the State are liable to be allowed. There is one more difficulty we may face. This is, with respect to catena of decisions available without taking note of the relevant provisions. Even this issue has been answered by the Full Bench of this Court referred to above, by holding that an issue which is not considered consciously leading to a decision may not be a binding precedent. Thus, illegality cannot be allowed to perpetuate.

23. Learned counsel appearing for the respondents/writ petitioners made reliance upon the decision rendered in Writ Appeal (MD) Nos.1254 and 1255 of 2019 dated 19.11.2019 in the matter of the State of Tamil Nadu, rep. by its Secretary, Department of Revenue v. Chinna Karuppaiah. We are afraid that the said decision will not enable the respondents from getting the relief. As aforesaid, the relevant Rules were not brought to the notice of the Court and Rule 16 of the Tamil Nadu Village Servants Service Rules, 1980, speaks about the status of the erstwhile Village Assistants and



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Village Officers such as Talaiyari and Karnams. Insofar as Talaiyaris are concerned, the part-time posts were sought to be abolished by fixing fixed compensation for the said work done and thereafter, a concession was given by bringing them under regular time scale of pay. The Government Orders concerned, which we discussed, followed by the Rules framed for the aforesaid purpose was not brought to the notice of the Court. We may note at the cost of repetition, but for the Government Order passed on 06.07.1995, the respondents Talaiyaris would have continued to have the status of part-time employees only. Therefore, it is not open to them to consider even from the inception that they were full-time employees, when there was no regular full-time scale of pay on a cadre basis.

24.The reliance made on the Tamil Nadu Village Servants Service Rules also is not correct, since it is to be applied prospectively for the new appointments. Therefore, there is no question of deemed permanent status contrary to the Rules and in any case, the respondents cannot approbate and reprobate.

25.Insofar as the Village Officers (Karnams) are concerned, the Act itself clearly specifies that they were part-time Village Officers and therefore, they were abolished. That is the reason why a challenge was made before the Courts. Thus, there is no ambiguity with respect to their own status.....”



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5. In view of the above order, the request made by the petitioner cannot be considered and the Writ Petition itself is devoid of merits and is liable to be dismissed. Accordingly, the Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

05.11.2025

Index : Yes/No
Neutral Citation : Yes/No
Speaking/Non Speaking order

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To

1. The Secretary to Government,
State of Tamil Nadu,
Finance (Pension) Department,
Fort St. George,
Chennai – 600 009.

2. The Principal Accountant General,
(Accounts and Entitlement),
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G.K.ILANTHIRAIYAN. J,

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