



WP.No.32888 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2025

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.32888 of 2019

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K. Janakiraman,
M-63 S/o. Kumarasamy,
No.83, St Xavier Street,
Seven Wells,
Chennai-600 001. ...

Petitioner

/vs/

1. The State of Tamil Nadu
rep. By the Principal Secretary,
Social Welfare and Nutritious
Meal Programme Department,
Fort St. George,
Chennai-600 009.
2. The Principal Secretary,
School Education Department,
Fort St. George, Chennai-600 009.
3. The Director of School Education,
College Road, Chennai-600 006.
4. The Joint Director of School Education (P),
College Road, Chennai-600 006.
5. The Principal Accountant General (A & E),
No.361, Anna Salai, Chennai-18.



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6. The Headmaster,
Government High Secondary School,
Medur, Thiruvallur District. ...

Respondents

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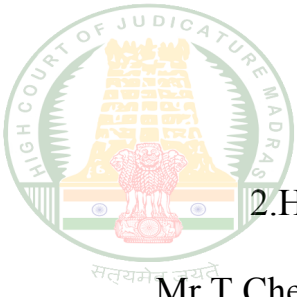
Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to forthwith consider and confer pension and other pensionary benefits by taking into account the services rendered in the time scale of pay between 01.01.1996 and 30.04.2015 followed by appointment as B.T. Assistant from 05.09.2006 and to include 50% of the casual labourer services as Noon Meal Organizer from 01.02.1983 in all calculating the total qualifying services as 25 1/2 years as per rule 11 of Tamil Nadu Pension Rules, 1978.

For Petitioner : M/s.N.R.Jasmine Padma

For Respondents : Mr.T.Chezhan, AGP

ORDER

This Writ Petition has been filed seeking a Writ of Mandamus to direct the respondents to forthwith consider and confer pension and other pensionary benefits by taking into account of the services rendered in the time scale of pay between 01.01.1996 and 30.04.2015 followed by appointment as B.T. Assistant from 05.09.2006 and to include 50% of the casual labourer services as Noon Meal Organizer from 01.02.1983 by calculating the total qualifying services as 25 1/2 years as per rule 11 of Tamil Nadu Pension Rules, 1978.



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2. Heard M/s.N.R.Jasmine Padma, learned counsel for the petitioner and Mr.T.Chezhian, AGP, learned Additional Government Pleader for the respondents and perused the materials available on record.

3. The petitioner was initially appointed as Noon Meal Organizer on 26.02.1983 and he was brought under the time scale of pay with effect from 01.01.1996. as the petitioner possessed the qualification of BSc., B.Ed., degree applied to the post of B.T. Assistant. As per the Teachers Recruitment Board's notification issued in the year 2006, he was appointed as B.T. Assistant on 05.09.2006. He reached the age of superannuation in April 2015. As the petitioner's past services have not been considered, the petitioner had filed this writ petition stating that 50% of his past services from the year 1983 to 2006 should be included as qualifying service for the purpose of pension.

4. The learned Additional government pleader for the respondents submitted that the petitioner has not been regularized as on 01.01.1996 because, he has been given with a regular time scale of pay only from 05.09.2006.

5. Sec. 11 (2) (iv) of the Tamil Nadu Pension Rules, 1978 states that the



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past services in contingent category can be taken into consideration only when the government servant is absorbed in regular service before 01.04.2003 and there is no break in service.

6. The learned counsel for the petitioner submitted that there is no break in service and hence 50% of his past services from the year 1983 to 2006 should be included as qualifying service for the purpose of pension.

7. The learned Additional government pleader for the respondent further submitted that the post of Noon Meal Organizer is a part-time job and hence the services rendered as noon meal organizer will not come under the purview of Sec.11(2) (iv) of the Tamil Nadu Pension Rules, 1978. The law has been settled on this point by the Judgement of the Full Bench of this Court in ***the Government of Tamil Nadu Vs. R.Kaliaymoorthy***, dated 03.12.2019 in W.A.Nos.158, 314 of 2016, wherein it is held as under:

"45. In the light of the above, we answer the reference as follows:

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



Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003

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(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 (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



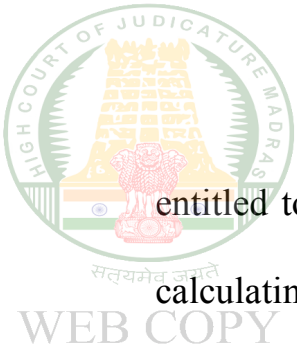
qualifying service for pension. "

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8. The petitioner has produced documents to show that he has been regularised as on 01.01.1996 itself. His service book entries would state that he joined on 26.09.1983 and relieved on 04.09.2006.

9. Similarly placed persons have already been granted with the same benefit in pursuant to the earlier order passed in this regard in W.P.Nos.10709 to 10712 and 10951 to 10954 of 2013 batch [*M.Kokila Vs.The state of Tamil Nadu rep by the Prinicipal Secretary to Government*] dated 24.03.2014.

10. As the petitioner has been brought under regular service as on 01.01.1996 and in the post of Non Meal Organiser, he is entitled to count 50% of his past services to be included for the purpose of counting qualifying services for the purose of pension. The petitioner had rendered 13 years of service as Non Meal Organizer from the year 1983 to 1996 and his services have been regularised on 01.01.1996 and thereafter also he was working until 04.09.2006 without any break and on 05.09.2006 he joined as B.T.Assistant and so he is



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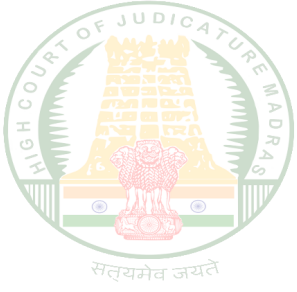
entitled to the benefit of computing 50% of his past services for the purposes of calculating qualifying services for pension.

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11.In view of the aforesaid reasons and in view of the earlier judicial pronouncement rendered in this regard this Writ Petition stands **allowed** and the respondents are directed to grant pension by computing 50% his past service from 01.01.1996. No costs. consequently, the connected miscellaneous petition is also closed.

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Index : Yes
Internet : Yes/No
jrs



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R.N.MANJULA, J.
jrs

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To

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State of Tamil Nadu
Social Welfare and Nutritious
Meal Programme Department,
Fort St. George, Chennai-600 009.
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