



W.P No. 29711 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2025

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P No. 29711 of 2017

E. Gousinisa Begum

..Petitioner

Vs

The Registrar
Anna University
Anna University Complex,
Chennai-600025.

..Respondent

Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorarified Mandamu, calling for the entire records which culminated in passing the order vide Letter No. 64368/PR42/2017 dated 16.05.2017 on the file of respondent, set aside the same and consequently directing the respondent to count the entire period of service rendered by the petitioner from 18.03.1993 to 26.11.1996 in the non-pensionable establishment along with regular service from 27.11.1996 to 31.05.2016 as per Rule 11 of the Tamil Nadu Pension Rules and pas further suitable orders.

For Petitioner : Mr.P. Ganesan

For Respondent : Mr. U. Bharanidharan



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ORDER

The captioned writ petition has been filed seeking issuance of a writ of certiorarified mandamus to quash the order dated 16.05.2017 passed by the respondent, by which the writ petitioner's request to include the period of temporary service from 1983 to 26.11.1996 in the gross qualifying service for pension and to extend pensionary benefits was rejected.

2. The petitioner was initially appointed as a Technician at Madurai University vide order dated 18.03.1983 on a temporary basis. Thereafter, he was appointed as Technician at Anna University vide order dated 08.04.1988, also on a temporary basis. Subsequently, he was appointed as Junior Technical Assistant on 16.10.1990 in the pay scale of Rs.1320-30-1560-40-2040.

3. The initial appointment on a temporary basis was subject to confirmation, and thereafter, the petitioner's services were regularised vide order dated 27.11.1996. He retired from service on 31.05.2016 on attaining the age of superannuation. However, pension has been sanctioned to the petitioner only by taking into account the service rendered from 27.11.1996 to 31.05.2016. The grievance of the petitioner is that the service rendered on a



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temporary basis prior thereto has not been taken into account for granting pension and other pensionary benefits. Hence, the present writ petition.

4. The learned counsel for the petitioner placed reliance on Rule 11 of the Tamil Nadu Pension Rules, which provides for counting the service of a Government servant from the date on which he takes charge of the post to which he is first appointed, either substantively or in an officiating or temporary capacity. Therefore, it is contended that the petitioner is entitled to have her temporary service counted for the purpose of fixation of pension and pensionary benefits.

5. Per contra, the learned counsel for the respondent-University relied on G.O.Ms. No. 408, Finance (Pension) Department, dated 25.08.2009, wherein it is stated that individuals engaged on Non-Provincialised Service, Consolidated Pay, Honorarium or Daily Wages, who were regularised before 01.04.2003, shall be entitled to reckon half of the total period of such service rendered after 01.01.1961 and prior to regularisation, subject to the conditions specified therein, for pensionary benefits.

6. Heard the submissions of the learned counsel on either side and perused the materials available on record.



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7. The core issue that arises for consideration in this writ petition is whether the petitioner's temporary service from 18.03.1983 to 26.11.1996 is liable to be included in the gross qualifying service for the purpose of pensionary benefits under the Tamil Nadu Pension Rules.

8. The reliance placed by the respondent-University on G.O.Ms. No. 408, Finance (Pension), dated 25.08.2009, restricting the counting of only half of the daily wage service, appears to be contrary to Rule 11(1) of the Tamil Nadu Pension Rules. However, the said Government Order is in the nature of a clarification to Rule 11(2), which provides that half of the service paid from contingencies shall be allowed to count towards qualifying service for pension, subject to conditions.

9. Notwithstanding the above, as per Rule 11(1) of the Tamil Nadu Pension Rules, the petitioner is entitled to have the service rendered by him on a temporary basis counted in full for pension and pensionary benefits. In any event, a clarificatory Government Order cannot override the statutory rules. The Tamil Nadu Pension Rules have statutory force, whereas a Government Order is only an executive instruction. If there is any conflict between the two, the statutory rules will prevail, and the Government Order cannot be used to take away or limit the rights granted under the rules. Therefore, the denial of



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pension based on the clarificatory order is legally unsustainable. Accordingly, the petitioner is entitled to have her temporary service from 16.10.1990 to 26.11.1996 taken into account for pensionary purposes.

10. In the result, the writ petition is allowed with the following directions:

- i. The Writ Petition is allowed.
- ii. The impugned order passed by the respondent in Letter No. 64368/PR42/2017 dated 16.05.2017 is hereby quashed.
- iii. The respondent is directed to count the service rendered by the petitioner from 16.10.1990 to 26.11.1996 as qualifying service under Rule 11(1) of the Tamil Nadu Pension Rules and to pay revised pension and other pensionary benefits, within a period of three (3) months from the date of receipt of a copy of this order.
- iv. No costs.

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Index : Yes/No
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HEMANT CHANDANGOUDAR, J.

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