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W.A.Nos.2556, 2855 & 2856 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON : 31 / 10 / 2025

JUDGMENT DELIVERED ON: 21 / 11 / 2025

CORAM:

**THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

**W.A.NOS.2556, 2855 AND 2856 OF 2018
AND
CMP NOS.23729, 20625 AND 23731 OF 2018**

W.A.NO.2556 OF 2018

1.The Secretary to Government
Revenue Department
Fort St. George, Chennai – 9.

2.The Commissioner for Revenue Administration
Chepauk, Chennai – 5.

3.The District Collector
Cuddalore District,
Cuddalore.

... Appellants /
Respondents 1-3

Versus

1.D.Anbalagan
S/o.Dharmalingam
Kaliankuppan,
Srineduncherri Post, Srimashnam (Via)
Kattumannercoil Taluk,
Cuddalore District – 608 703.

... 1st Respondent /
Petitioner



W.A.Nos.2556, 2855 & 2856 of 2018

2.The Accountant General of Tamil Nadu
Teynampet,
Chennai – 18.

... 2nd Respondent /
4th Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the Order dated November 16, 2017 of the learned Single Judge of this Court made in W.P. No.10252 of 2012 by allowing the writ appeal.

For Appellants : Mr.UM.Ravichandran
Special Government Pleader

For Respondent -1 : Mr.R.Prem Narayanan

For Respondent -2 : Served – No appearance

W.A.NO.2855 OF 2018

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

2.The Collector
Salem,
Salem District.

3.The Revenue Divisional Officer
Sankagiri,
Salem.

... Appellants /
Respondents 1, 3 & 4

Versus

1.R.Chinnusamy



W.A.Nos.2556, 2855 & 2856 of 2018

66-A6, Branch Road,
Sankari West, Sankari – 637 303.
Salem District.

... 1st Respondent /
Petitioner

2.The Senior Accounts Officer
O/o. Principal Accountant General
(Accounts & Entitlements)
Tamil Nadu, 361, Anna Salai,
Chennai – 600 018.

... 2nd Respondent /
2nd Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the Order dated August 2, 2017 of the learned Single Judge of this Court made in W.P. No.41841 of 2016 by allowing the writ appeal.

For Appellants : Mr.UM.Ravichandran
Special Government Pleader

For Respondent -1 : Mr.P.Mohanraj

For Respondent -2 : Served – No appearance

W.A.NO.2856 OF 2018

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

2.The Collector
Salem, Salem District.

3.The Revenue Divisional Officer
Sankagiri,



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W.A.Nos.2556, 2855 & 2856 of 2018

Salem.

... Appellants /
Respondents 1, 3 & 4

Versus

1.V.Natesan

No.5, Krishna Nagar, I Cross,
Ammappettai Post, Salem – 636 003.
Salem District.

... 1st Respondent /
Petitioner

2.The Senior Accounts Officer

O/o. Principal Accountant General
(Accounts & Entitlements)
Tamil Nadu, 361, Anna Salai,
Chennai – 600 018.

... 2nd Respondent /
2nd Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the Order dated August 2, 2017 of the learned Single Judge of this Court made in W.P. No.41842 of 2016 by allowing the writ appeal.

For Appellants : Mr.UM.Ravichandran
Special Government Pleader

For Respondent -1 : Mr.P.Mohanraj

For Respondent -2 : Served – No appearance

COMMON JUDGMENT

R.SAKTHIVEL, J.

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Originally, in Tamil Nadu, Village Karnams or Village Officers were appointed under two Acts namely, the Madras Proprietary Estates' Village Service Act, 1894 [Madras Act No.2 of 1894] and the Madras Hereditary Village Offices Act, 1895 [Madras Act No.3 of 1895]. The post was hereditary in character under both the aforesaid Acts. If the aforementioned Acts were inapplicable in certain cases, provisions in the Board Standing Orders which enabled the appointment of Village Officers, was also mostly on a hereditary basis. The Village Karnams or Village Officers appointed through the aforementioned three modes, were all part-time employees of the Government. No reservation was followed and no minimum general qualification was prescribed prior to 1970, for appointments under the aforementioned three modes; it was considered sufficient if they had the ability to read and write. The Fundamental Rules applicable to other State Government Employees, Leave Rules and Pension Rules were not applicable to the Village Officers or Village Karnams. They were free to take up part-time employments after getting necessary permission from the concerned revenue authorities. No age limit was fixed for their superannuation and they were not entitled to retirement and terminal benefits such as Gratuity and Pension. In Andhra Pradesh, a similar issue



arose as to which Village Officer of the Amalgamated Villages are to be appointed as the new Village Officer and the matter came up for consideration before Hon'ble Supreme Court in ***Gazula Dasaratha Rama Rao -vs- State of Andhra Pradesh***, reported in ***AIR 1961 SC 564***. The Hon'ble Supreme Court opined that Section 6 (1) of the aforesaid Madras Act No.3 of 1895 dealing with hereditary appointment in so far as it infringed the fundamental rights of any citizen of India is void under Article 16 (2) of the Constitution of India. In view of the above decision, eventually, the Tamil Nadu State Legislature passed the Madras Proprietary Estates Village Service and the Madras Hereditary Village- Offices (Repeal) Act, 1968 [Madras Act No.20 of 1968] repealing the Madras Act Nos. 2 of 1894 and 3 of 1895 with effect from December 1, 1968. The repealing Act however provided that the office holders of a village office appointed under the repealed Acts, notwithstanding such repeal, shall continue to hold their respective office subject to Rules as may be framed by the State under the proviso to Article 309 of the Constitution of India. Section 3 of the repealing Act provided that any vacancy arising in the aftermath, shall be filled up in accordance with the Rules, made under the proviso to Article 309 of the Constitution of India. On December 1, 1968, Governor of Tamil



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Nadu promulgated a Rule under the proviso to Article 309 of the Constitution of India providing standing orders of the Board of Revenue applicable to the non-hereditary Village Officers, shall apply to every holder of a village office to which Madras Act Nos.2 of 1894 and 3 of 1895 were applicable immediately before December 1, 1968. Pursuant to the aforesaid Madras Act No.20 of 1968 (came into force on December 1, 1968), Government of Tamil Nadu passed the Tamil Nadu Village Officer Service Rules, 1970 providing for the constitution of the Village Officers Service consisting of Village Headman, Additional Village Headman, Village Karnam, Additional Village Karnam, *Dalayari*, *Nirganti* and for the method of recruitment thereto. The said Rules came into force from December 16, 1970 and they extended to whole of the State of Tamil Nadu except Kanyakumari District, Sengotta Taluk of Tirunelveli and the Madras City [where the posts in the village offices were permanent in nature]. The said Rules prescribed certain qualifications *inter alia* for the post of Village Karnam and Additional Village Karnam. Along with the said Rules, the Tamil Nadu Village Officer (Classification, Control and Appeal) Rules, 1970 and the Tamil Nadu Village Officers Conduct Rules, 1970 were also passed. These three Rules were not only applicable to the Village Officers



appointed thereafter, but also to the Village Officers appointed under the repealed Acts and the Board Standing Orders prior to December 16, 1970.

The main point is that all these Village Officers including Village Karnams remained as part-time servants in non-pensionable posts. In the year 1973, the Administrative Reforms Commissions recommended that the existing part-time Village Officers be replaced with regular whole time transferable public servants forming part of the revenue hierarchy. Pursuantly, the Government of Tamil Nadu passed the Tamil Nadu Abolition of Post of Part-Time Village Officers Ordinance, 1980 [Tamil Nadu Ordinance No.10 of 1980] and 'the Tamil Nadu Abolition of Post of Part-Time Village Officers Act, 1981 [Tamil Nadu Act No.3 of 1981]" ('Abolition Act' for short) followed. The above narrative is largely inspired from the historical account of the post of Village Officers set out in the Judgment of Hon'ble Supreme Court in ***K.Rajendran -vs- State of Tamil Nadu***, reported in ***(1982) 2 SCC 273***.

2. Coming to the facts of the case, first respondents in all the three captioned writ appeals were appointed as 'Village Karnams' and their services were terminated on November 14, 1980 under the Tamil Nadu Ordinance No.10 of 1980 and the Abolition Act. The constitutional validity



of the Abolition Act was challenged in the writ petition in ***K.Rajendran's***

Case [cited *supra*], wherein the Hon'ble Supreme Court upheld the constitutional validity of the Abolition Act and dismissed the writ petitions subject to certain conditions. The operative portion reads thus:

"52. In the result the petitions are dismissed subject to the following:

"(i) The State Government will give effect to the memorandum filed on its behalf which is incorporated in this judgment in the case of those who possess the minimum general qualifications prescribed under the Act and the Rules made thereunder and who were holding the posts of part-time Village Officers immediately before the Act came into force. The State Government shall reemploy all such persons who have not crossed the age of superannuation and who are selected as per the memorandum in the new cadre within four months from today. Until they are so selected, they will not be paid any remuneration. Even if they are reemployed, the amount paid to them pursuant to the interim orders will not be recovered from them.

(ii) The compensation, if any, payable by the State Government under Section 5 of the Act to those who cease to be Village Officers shall be adjusted



against the amount paid pursuant to the interim orders passed in these cases. The State Government will not recover from them any amount paid to them pursuant to the interim orders passed in these cases in excess of the compensation, if any, payable to them.

(iii) The interim orders stand vacated with effect from April 15, 1982."

(iv) No costs."

[Emphasis supplied by this Court]

3. In view of the memorandum submitted by Government of Tamil Nadu in ***K.Rajendran's Case*** and the directions issued by Hon'ble Supreme Court therein, the first respondents in all the captioned writ petitions, having met the minimum general qualification prescribed, were re-employed as Village Administrative Officers. Their details of service are as hereunder:

Sl. No.	Name	W.P.No. & Order Date	W.A.No.	Post Held	Services Rendered	
					From	To
1	D.Anbalagan	10252 of 2012	2556/2018	Village Karnam	01.12.1978	14.11.1980
		16.11.2017		Village Administrative Officer	11.07.1982	31.01.2010 (retirement)
2	R.Chinnusamy	41841 of 2016	2855/2018	Village Karnam	11.10.1974	14.11.1980
				Village	01.09.1982	31.08.2008



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3	V.Natesan	02.08.2017	2856/2018	Administrative Officer		(retirement)
		41842 of 2016		Village Karnam	21.06.1969	14.11.1980
		02.08.2017		Village Administrative Officer	01.09.1982	31.01.2006 (retirement)

4. Subsequently, post their retirement, the first respondents in all three writ appeals sent representations seeking to consider half of the service rendered by them as Village Karnams for the purpose of reckoning the 'qualifying service' for pension.

4.1. D.Anbazhagan, the first respondent in W.A. No.2556 of 2018, sent a representation on March 12, 2011 to concerned authorities who are the appellants in the said writ appeal, seeking to count half of the service rendered by him as 'Village Karnam' from December 1, 1978 till November 14, 1980 along with his service as Village Administrative Officer, for the purpose of reckoning 'qualifying service' for pension under 'the Tamil Nadu Pension Rules, 1978' ['TN Pension Rules' for short] and other consequential benefits. His representation was rejected on the ground that the post of Village Karnam was a part-time post and therefore, he is not entitled to count half of the service rendered by him as Village Karnam. Aggrieved by



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the same, he filed writ petition in W.P.No.10252 of 2012, which was allowed by the learned Single Judge of this Court on the ground that such a benefit has been extended to part-time employees in Rural Development Department and Panchayat Clerks vide G.O. (Ms) No.39 - Rural Development and Panchayat Department - dated June 13, 2011. The learned Single Judge also placed reliance on two decisions - ***R.Ragupathy -vs- State of Tamil Nadu***, reported in ***2012 (3) MLJ 12*** and ***V.Ramar -vs- State of Tamil Nadu***, reported in ***2014 Writ L.R. 687*** - in support of his findings. Feeling aggrieved, the State of Tamil Nadu and its officials, who were the respondents in the writ petition, have preferred the writ appeal in W.A.No.2556 of 2018.

4.2. Likewise, R.Chinnasamy and V.Natesan, who are the first respondents in the other two writ appeals, sent their representations seeking the same benefit, which were rejected on July 13, 2016 and July 15, 2016 respectively by the Office of the Accountant General. Hence, they filed writ petitions in W.P. Nos.41841 and 41842 of 2016 respectively. The matter was tagged with a bunch of other similar matters. The learned Single Judge vide Common Order dated August 2, 2017, allowed the aforesaid writ petitions by holding that the petitioners having rendered service on



temporary basis as Village Karnam and having been subsequently re-employed as Village Administrative Officer *qua* whole time employees, are entitled to the benefit of Rule 11 of TN Pension Rules, on the strength of the Judgment of a Division Bench of this Court in ***Union of India -vs- K.Punniyakoti***, reported in **2014 (2) CTC 777**. Accordingly, the learned Single Judge directed the authorities to pass appropriate Orders as per Rule 11 of the TN Pension Rules. Assailing the said Order, the respondents 1, 3 and 4 therein have preferred the writ appeals in W.A.Nos.2855 and 2856 of 2018.

5. Heard Mr.UM.Ravichandran, learned Special Government Pleader for the appellants, Mr.Prem Narayanan learned Counsel for the first respondent in W.A. No.2556 of 2018 as well as Mr.P.Mohanraj, learned Counsel for the first respondents in W.A. Nos.2855 and 2856 of 2018.

6. Mr.UM.Ravichandran would submit that the questions arising in these writ appeals are no more *res integra* in view of the Division Bench judgment of this Court in ***State of Tamil Nadu -vs- E.Balachandran and Others***, reported in **2021 SCC OnLine Mad 982 (E.Balachandran's Case)** as well as the Full Bench Reference in the present writ appeals (detailed



below). The post of Village Karnams were non-pensionable and part-time in nature. The Full Bench in ***Government of Tamil Nadu -vs- R.Kaliyamoorthy***, reported in ***2019 SCC OnLine Mad 39784 : (2019) 6 CTC 705 (FB) (Kaliyamoorthy's Case)*** *inter alia* ruled that in order to enjoy the benefit under Rule 11 of TN Pension Rules, the conditions stipulated therein under sub-rules 3 and 4 must be satisfied. One of the conditions enumerated thereunder is a whole-time employment; the officers must have been employed for full-time and not part-time during the relevant period. The learned Single Judges did not consider the conditions enumerated under Rule 11 and allowed the writ petitions.

6.1. He would further submit that the State preferred appeal by way of Special Leave Petition against the Division Bench Judgments that advanced the very benefit sought for in the present writ petitions to Village Assistants and part-time Panchayat Clerks. S.L.P. (C) No.12118 of 2025 filed over the Order dated November 25, 2024 passed in ***Secretary to Government -vs- Rajamma*** in ***W.A. No.562 of 2024*** dealing with Village Assistants is pending consideration. Likewise the S.L.P. (C) Nos.10574 and 10575 of 2024 *inter alia* over the Division Bench Orders passed in ***Government of Tamil Nadu -vs- P.V. Vellingiri*** in ***W.A. No.431 of 2016*** and in



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Government of Tamil Nadu -vs- Rajendran in **W.A. No.612 of 2016** both

dealing with part time Panchayat Clerks are also pending. Accordingly, he prayed to allow the writ appeals and set aside the Order passed by the learned Single Judges.

7. On the other hand, Mr.Prem Narayanan and Mr.P.Mohanraj, learned Counsels for the first respondents in all writ appeals would argue that the Government passed G.O.(Ms) No.39 - Rural Development and Panchayatraj Department - dated June 13, 2011 whereby it was ordered that 50% of the service rendered by part-time / full-time Panchayat Clerks before their regularisation on April 1, 2003 shall be reckoned for the purpose of pension under TN Pension Rules. Thereafter, the Government passed G.O.(Ms) No.77 - Rural Development and Panchayatraj Department - dated July 12, 2013, clarifying that part-time employees are not entitled to the benefit under the said G.O.(Ms) No.39. The same was challenged before this Court in **K.Ramachandran -vs- The Government of Tamil Nadu** in **W.P. No.23847 of 2013 and batch**, which was allowed vide Order dated June 27, 2014 and the impugned provision *qua* exclusion of part-time employees from the benefits derived under the earlier Government Order in



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said G.O. (Ms) N0.39 was quashed. In other words, Clause 4 (b) of the said G.O. (Ms). No.77 was declared illegal. Since then, this Court in numerous cases, have ordered to count 50% of the service rendered by part-time employees whose service was regularised before April 1, 2003. Even many Village Karnams and Village Assistants have been benefitted accordingly. Hence, denying the aforesaid benefit to the writ petitioners would be against the principles of parity and against Article 14 of the Constitution of India. In support of his submissions, he would rely on the Judgment of Hon'ble Supreme Court in *Union of India -vs- Munshi Ram*, reported in **2022 SCC Online SC 1493** and the Judgment of this Court in *The Secretary to the Government -vs- Rajamma in W.A.No.562 of 2024*, decided on **November 25, 2024**.

8. Heard on either side. Perused the entire records available in the case files.

9. Before delving into the issues, it is apposite to extract Rule 11 (3) and (4) of TN Pension Rules hereunder:

'CHAPTER - III QUALIFYING SERVICE

11. Commencement of qualifying services. -



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...
(3) *Half of the service rendered by a Government servant under non-pensionable establishment shall be counted for retirement benefits along with regular service under pensionable establishment subject to the following conditions:-*

(i) Service under non-pensionable establishment shall be in a job involving whole time employment.

(ii) Service under non-pensionable establishment shall be on time scale of pay and

(iii) Service under non-pensionable establishment shall be continuous and followed by absorption in pensionable establishment without a break.

Provided that in respect of those who retired prior to the 14th February, 1996, the retirement benefit or revised retirement benefit, as the case may be, admissible to them shall be paid from the 14th February, 1996 and there shall be no claim for arrears in any case, for the period up to the 13th February, 1996.

(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 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. '

[*Emphasis supplied by this Court*]

10. The core issues involved in the instant writ appeals are as follows:

- (i)** Whether the post of Village Karnam held before the Abolition Act was part-time or not ? Whether it can be considered to be a post of whole-time employment ?
- (ii)** Whether half of the service rendered by the Village Administrative Officer previously as Village Karnam can be taken into account for the purpose of reckoning the 'qualifying service' for the purpose of pension under TN Pension Rules ? In other words, whether the first respondents in all the three writ appeals are entitled to the benefit under Rule 11 of TN Pension Rules ?

11. These issues came up for consideration before a Hon'ble Division



Bench of this Court in the batch of writ appeals in ***State of Tamil Nadu -vs-***

E.Balachandran and Others in ***W.A.(MD) No.1629 of 2018 and batch.***

The Hon'ble Division Bench had an opportunity to decide these issues not only in the context of Village Karnams but also Village Assistants. Vide Judgment reported in ***2021 SCC Online Mad 982***, the Hon'ble Division Bench held thus:

"35. 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. Secondly, re-employment has been made in favour of few eligible persons after due scrutiny by the Committee. A learned Single Judge (The Hon'ble Mr. Justice V. Ramasubramanian), as he then was, by order dated 09.01.2009, made in W.P. Nos. 276 to 280 of 2009 and W.P. Nos. 287 to 293 of 2009, in the matter of M. Annai Muthu v. State of Tamil Nadu, has clearly captured the history, background and their entitlement. Even for them, a separate Government Order has been passed in G.O.Ms. No. 121, Revenue Department, dated 13.03.2001, giving certain pensionary benefits. In this connection, we would



appropriately quote the following paragraphs:—

“17. However, by an order in G.O.Ms. No. 121, Revenue, dated 13.3.2001, the Ex. Village Officers who lost their jobs on 14.11.1980 and who got appointed temporarily after 1988 by acquiring the minimum general educational qualification subsequent to the date of abolition, but who retired without completing the qualifying service of 10 years, were granted the benefit of special pension originally ordered to the Ex-Officers who lost their jobs and who never got re-employment. Paragraphs-7 and 8 of the said order read as follows:—

“7. The Government have after careful consideration of the request of the Retired Village Administrative Officers and the recommendation of the Principal Commissioner and Commissioner of Revenue Administration, direct that the pensionary benefits ordered in G.O.(Ms) No. 828, Revenue, dated 23.8.1996 and enhanced in G.O.(Ms) No. 629, Revenue, dated 22.7.1998 be



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extended to the Ex-Village Officers who lost their jobs on 14.11.1980 and who did not possess minimum general educational qualification at the time of abolition of the posts of Village Officers (i.e.) 14.11.1980, but obtained the educational qualification, subsequent to 20.2.1982 and appointed as Village Administrative Officers under Rule 10(a)(i) basis with reference to G.O.(Ms) No. 1287, Revenue, dated 6.7.1988 and retired without completing 10 years of qualifying service.

8. The Government also direct that the said category of Ex-Village Officers are eligible for pension sanctioned in paragraph-3 above, with effect from 5.12.1986, excluding for the period they worked as Village Administrative Officers.”

18. To summarise, the vexed question of grant of pension for the services rendered by



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the erstwhile Village Officers has undergone a metamorphosis over the past three decades and step by step the Government have yielded to the demand, category wise as follows:—

(a) FOR THOSE WHO NEVER GOT RE-EMPLOYED:—

A special pension of Rs. 175/- per month later enhanced to Rs. 250/- per month with attendant benefits to all those living Ex-Village Officers, who lost their jobs on 14.11.1980 but who never got re-employed was first sanctioned with effect from 5.12.1986. For the families of those who were dead, a special family pension of Rs. 100/- per month later enhanced to Rs. 150/- per month, was similarly sanctioned.

(b) FOR THOSE WHO GOT RE-EMPLOYED

IN 1982 : - For persons who lost their jobs on 14.11.1980 and who were appointed as Village Administrative Officers in the year 1982, by virtue of possessing minimum general educational qualification, but who retired without completing 10 years of



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service in the new category, their services were directed to be counted not from the date of their appointment in 1982 but directed to be counted with effect from 14.11.1980, so that they get 10 years of qualifying service in the new category to get at least minimum pension.

If these persons did not get 10 years of service, even after counting the service from 14.11.1980, then they were directed to be granted the special pension as per G.O.Ms. No. 828, Revenue, dated 23.8.1996, with effect from 5.12.1986, but excluding the period of their non-employment.

(c) FOR THOSE WHO GOT RE-EMPLOYED AFTER 1988 : - Persons who lost their jobs on 14.11.1980 and who got appointed temporarily under Rule 10(a)(i) after 1988, by virtue of acquiring minimum general educational qualifications after the date of abolition, the special pension granted to those who were never re-employed, was granted with effect from 5.12.1986, excluding the period of their re-employment on



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temporary basis.”

36. In our considered view, the learned Single Judge, as he then was, has correctly applied the law by taking note of the fact even for the recruitment of part-time re-employment. Therefore, in the process, there were separate sets of Rules dealing with pensionary benefits. Now, there is no separate sets of Rules. They can recourse to the regular course of Rule applicable to Government servants under the Tamil Nadu Pension Rules, 1978. Incidentally, this being a re-employment, even otherwise Rule 11(3) would act as an embargo.

37. Having considered the entire issues involved, we also find that there is no application of Article 14 of the Constitution of India by comparing the respondents with those who got the relief albeit without taking note of the relevant provisions of law. Granting the relief would amount to setting aside two pension Rules without even a challenge especially when the respondents got the benefit of regular employment and permanent posts under the subsequent orders passed, on their request.

38. In the result, the appeals filed by the Government of Tamil Nadu stand allowed by setting



aside the orders passed by the learned Single Judge and consequently, the appeal filed by the Writ Petitioner in W.A.(MD) No. 831 of 2020 stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed."

12. The Hon'ble Division Bench in ***E.Balachandran's Case (cited supra)*** thus held that the post of Village Karnam held before the Abolition Act is a part-time post and hence, it cannot be considered for counting the period of 'qualifying service' for the purpose of pension under TN Pension Rules, as the conditions of whole-time employment stipulated under Rule 11 (3) and (4) would serves as an embargo.

13. While that being the position of law as settled by ***Balachandran's Case (cited supra)***, when the captioned writ appeals came up before the then roaster bench, their Lordships were of the considered opinion that the view taken by the Hon'ble Division Bench in ***Balachandran's Case*** is in conflict with various earlier Division Bench Judgments of this Court. Hence, the matter was referred to the Hon'ble



Chief Justice for an authoritative pronouncement by constituting a Full Bench. Relevant extract from the Order made by the then roaster bench is hereunder:

"9.The said view taken by the Division Bench in E.Balachandran's case [cited supra] is a view that has been taken in conflicting with the earlier decisions rendered by various Division Benches of this Court. Some of them are as follows:

1) The Government of Tamil Nadu rep. by its Secretary to Government, Rural Development and Panchayat Raj Department and others vs. P.V.Velliyangiri and others in W.A.No.431 of 2016 dated 11.04.2016

2) The Government of Tamil Nadu rep. by its Secretary to Government, Rural Development and Panchayat Raj Department and others vs. M.Rajendran and another in W.A.No.612 of 2016 dated 24.06.2016.

3) The State of Tamil Nadu rep. by its Secretary to Government, Revenue Department and others vs. K.Muthammal in W.A.(MD).No.442 of 2018 dated 15.03.2018.

4) The Government of Tamil Nadu rep. by its Secretary to Government, School Education



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Department and others vs. K.Pachaiyappan in W.A.No.882 of 2017 batch dated 06.04.2018.

5) The State of Tamil Nadu rep. by its Principal Secretary to Government, Revenue Department and others vs. M.Paranthaman in W.A.(MD).No.1065 of 2018 batch dated 17.09.2018.

10. In view of the aforestated conflicting views and since in the said judgment i.e., E.Balachandran's case [cited supra] reported in [2021] 3 MLJ 92, the Division Bench has given interpretation to the Full Bench judgment of R.Kaliyamoorthy's case [cited supra], we feel that in order to get an authoritative pronouncement, this issue can be referred again to a Full Bench of this Court to be constituted in this regard. Therefore, for the aforestated purpose, the Registry is directed to place the papers before the Hon'ble The Chief Justice for appropriate orders."

14. Eventually a Hon'ble Full Bench was constituted, which rendered its Judgment [W.A.Nos.714 to 716, etc. (batch)] on March 20, 2024. Paragraph Nos.13 to 16 are relevant and they read thus:

"13. In the present matter, the vires of Rule 11(4) is not the subject-matter of challenge. The doctrine of reading down a provision would apply only in two



situations: (i) To save a statute from being struck down on account of its unconstitutionality; and (ii) Where the provisions of the statute are vague and ambiguous. However, when the provision is cast in a definite and unambiguous language and its intention is clear, it is not permissible either to mend or bend it even if such recasting is in accord with good reason and conscience. Reference can be had to the judgments of the Apex Court in the case of Delhi Transport Corporation v. DTC Mazdoor Congress and others, 1991 Supp (1) SCC 600.

14. The amendment to Rule 11(4) was introduced in the year 2010. However, it is given effect to retrospectively. Unless the rule is challenged, the principle of reading down cannot be made applicable.

15. The Government Order referred to in the order under reference does not state anywhere with regard to the grievance of the petitioners/appellants. The judgment of the Apex Court on the basis of which the matter was referred to the Full Bench (Prem Singh) also would not be applicable. Even we cannot apply the principle of reading down in a particular manner, as the constitutionality of the said Rule is not challenged. It is for the appellants/petitioners to take appropriate steps as may be permissible in law.



16. We are of the firm view that in the absence of challenge to the constitutionality of the relevant Rule, the judgment of the Full Bench needs no reconsideration. The reference is answered accordingly. The matters be sent back to the respective Courts for further decision."

[Emphasis supplied by this Court]

15. The Hon'ble Full Bench, after considering the Judgment of Hon'ble Supreme Court in ***Prem Singh -vs- State of Uttar Pradesh*** reported in ***(2019) 10 SCC 516***, the Judgment of Full Bench of this Court in ***Government of Tamil Nadu -vs- R.Kaliyamoorthy***, reported in ***2019 (6) CTC 705***, and the provisions of TN Pension Rules particularly Rules 3 (8) and 11, held that in the absence of challenge to the constitutionality of Rule 11 of the TN Pension Rules, there is no need to interfere with the Full Bench Decision in ***Kaliyamoorthy's Case***. In effect, the constituted Hon'ble Full Bench held that to get the benefit of Rule 11 (4) of TN Pension Rules, the conditions stated therein must be satisfied, in other words, part-time employment cannot be taken into account for reckoning 'qualifying service' for pension. This Court deems fit to extract here the relevant portion of ***R.Kaliyamoorthy's Case*** for ease of reference:



'32. In our opinion, for determination of retirement benefits under Sub-Rule (4) to Rule 11 half of the service rendered by a government employee in the following capacity shall be counted:

i. Non-provincialised Services

ii. Consolidated pay;

*iii. honorarium; or
daily wage basis.*

33. However, to add half of services rendered in the above capacity, such services should have also been regularised between 1st January, 1961 and 31st March, 2003 apart from satisfaction of other conditions stipulated therein.'

[Emphasis supplied by this Court]

15.1. To be noted, the conditions stipulated under sub-rules 3 and 4 of Rule 11 of TN Pension Rules prescribes whole-time employment.

16. Further, reference shall also be made to the Division Bench Judgments of this Court made in *The Principal Secretary to Government -vs- S. Muthiah* in *W.A. (MD) No.976 of 2021* dated March 19, 2025, and in *C.Gajendran -vs- The District Collector* reported in *2025 SCC Online*



Mad 9313. In the afore-cited Judgments, similar issue as in the present writ appeals came up before this Court in the context of a Village Assistant who was a part-time employee before regularisation of his service. It was sought to consider half of service rendered by the writ petitioner therein as Village Assistant prior to regularisation of his service on June 1, 1995, for the purpose of counting the qualifying service for pension. This Court dismissed the writ appeal by placing reliance on **Kaliyamoorthy's Case** [Full Bench] and **E.Balachandran's Case** [Division Bench]. It was held that sub-rules 3 and 4 of Rule 11 of TN Pension Rules *inter-alia* mandate whole-time employment during the relevant period as a condition precedent for deriving the benefit under Rule 11 and since the post of Village Assistants were not whole-time posts prior to regularisation on June 1, 1995, half the period of previous employment as Village Assistant cannot be taken into consideration for the purpose of reckoning the qualifying service for pension.

17. To be noted, as set out in Paragraph No.1 hereinabove, post of Village Karnam before the Abolition Act was held to be a part-time employment and a non-pensionable post. The first issue arising in these writ appeals is thus already answered.



18. The next and last question is whether half of the service rendered as Village Karnam can be counted as qualifying service for pension. In view of the above legal position, it is clear that the first respondents in the instant writ appeals having served as Village Karnam before their re-employment as Village Administrative Officers in 1982, are not eligible to claim inclusion of half the period of their previous employment while reckoning the 'qualifying service' for the purpose of pension under the TN Pension Rules, for the post of Village Karnam held before the Abolition Act being a part-time and non-pensionable post, the condition of whole-time employment stipulated under sub-rules 3 and 4 of Rule 11 of the TN Pension Rules are not satisfied.

19. As regards *Munsi Ram's Case* [cited *supra*] relied on by the learned Counsels for the first respondents in W.A.No.2556 of 2018, it would not help the first respondent in the said Appeal, in view of the clear and unambiguous position of the rule in Rule 11 of the TN Pension Rules and in the light of the facts and circumstances of this case.



20. As regards to *Rajamma's Case (cited supra)*, as the rule position of the rule / law was not brought to the notice of the Hon'ble Division Bench, this Court is of the considered view that it cannot be taken as a binding precedent for the instant case.

21. The learned Single Judges who passed the Orders under challenge in the instant writ appeals, did not consider the fact that the first respondent in the writ appeals did not satisfy the conditions prescribed under Rule 11 (3) and (4) of TN Pension Rules. Further, the correct position of the rule was not brought to the kind notice of the learned Single Judges. Further, *Punniyakoti's Case* relied on by one of them, is not applicable to the present case, as the writ petitioner therein was a full-time but temporary employee appointed in Indira Gandhi Centre for Atomic Research, Kalpakkam, to which Institute, Central Civil Service (Pension) Rules, 1972 is applicable and not TN Pension Rules. Incidentally, whole-time employment is one among the various conditions for pension eligibility under the said Central Rules as well. Hence, the Orders under challenge are liable to be set aside.

22. In conclusion, the captioned writ appeals are allowed by setting



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aside the Orders of the learned Single Judges in W.P.Nos.10252 of 2012, 41841 of 2016 and 41842 of 2016. Consequently, the writ petitions are dismissed. In view of the facts and circumstances of this case, the parties shall bear their own costs. Connected Civil Miscellaneous Petitions are closed.

[M.S.R., J.]

[R.S.V., J.]

21 / 11 / 2025

Index : Yes
Neutral Citation : Yes
Speaking Order : Yes
TK

To

1.The Accountant General of Tamil Nadu
Teynampet, Chennai – 18.

2.The Senior Accounts Officer
O/o. Principal Accountant General, (Accounts & Entitlements),
Tamil Nadu, 361, Anna Salai, Chennai – 600 018.



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W.A.Nos.2556, 2855 & 2856 of 2018

M.S.RAMESH, J.

AND

R.SAKTHIVEL, J.

TK

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W.A.NOS.2556, 2855 AND 2856 OF 2018

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