



WEB COPY **BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 18.02.2025

CORAM:

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MS JUSTICE R.POORNIMA**

**W.A(MD)Nos.1306 of 2011 and 706 of 2010
and
M.P(MD)Nos.1 of 2010 and 3 of 2011**

V.Perumal
Formerly Gang Master,
Tenkasi Municipality,
Tenkasi,
Tirunelveli District.

... Appellant/Petitioner

.Vs.

- 1.The Secretary to Government,
Municipal Administration and Water Supply
(Na.Pa.1)Department,
Fort St.George,
Chennai -600 009.
- 2.The Director of Municipal Administration,
Chepauk,
Chennai – 600 005.
- 3.The Commissioner,
Tenkasi Municipality,
Tenkasi,



WEB COPY Tirunelveli District.

4.The Director,
Local Fund Audit,
4th Floor,
Kuralagam Complex,
Chennai – 600 105.

... Respondents/Respondents

W.P(MD)No.706 of 2010

1.The Secretary to Government,
Municipal Administration and Water Supply
(Na.Pa.1)Department,
Fort St.George,
Chennai -600 009.

2.The Director of Municipal Administration,
Chepauk,
Chennai – 600 005.

3.The Commissioner,
Tenkasi Municipality,
Tenkasi,
Tirunelveli District.

4.The Director,
Local Fund Audit,
4th Floor,
Kuralagam Complex,
Chennai – 600 105.

:Appellants/Respondents

/vs/

V.Perumal
Formerly Gang Master,
Tenkasi Municipality,
Tenkasi,



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Tirunelveli District.

:Respondent/Petitioner

PRAYER in W.A(MD)NO.1306 of 2011: Writ Appeal filed under Clause 15 of Letters Patent Act praying this Court to set aside the order passed by this Court made in W.P(MD)No.1519 of 2010, dated 24.08.2010 insofar as the denial of arrears of salary from 31.3.2005 to 31.3.2007 and consequently allow the Writ Petition in fully prayed for as in Mr.T.Pandaram's case.

PRAYER in W.A(MD)NO.706 of 2010: Writ Appeal filed under Clause 15 of Letters Patent Act praying this Court to set aside the order passed by this Court made in W.P(MD)No.1519 of 2010, dated 24.08.2010.

W.P(MD)No.1306 of 2011

For Appellant	: Mr.K.Rajkumar
For R1,R2 & R4	: Mr.D.Gandhiraj Spl.Govt. Pleader
For R3	: Mr.K.Mahendran

W.P(MD)No.706 of 2010

For Appellants 1,2 and 4	: Mr.D.Gandhiraj Spl.Govt. Pleader
For Appellant No.3	: Mr.K.Mahendran



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For Respondent

:Mr.K.Rajkumar

COMMON JUDGMENT

(Judgment of the Court was made by DR.G.JAYACHANDRAN,J.)

These Writ Appeals are filed by the Writ Petitioner as well as the State being aggrieved by the order of the learned Single Judge in W.P(MD)No.1519 of 2010, dated 24.08.2010.

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

3.V.Perumal, who joined as NMR in Tenkasi Municipality, later was regularized and on attaining the age of 58 years, he was superannuated. However, the fundamental rules for basic servants envisage that retirement age of basic servants is 60 years. One Mr.Pandaram, who was employed as Gardener in Tenkasi Municipality approached this Court by way of Writ Petition in W.P(MD)No.1771 of 2007 for continuation of service till he attains the age of 60 years and he succeed. Citing the case of Pandaram, Perumal has approached this



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Court by filing W.P(MD)No.1519 of 2010. The learned Single Judge, after considering the relief sought and considering the main difference between the case of Pandaram and the Writ Appellant-Perumal that the said Pandaram approached this Court before his superannuation and sought for extension, whereas, the Perumal has come to this Court after he being relieved from service, thought fit that he was not entitled for the monetary benefit for 2 years period for which he has not worked and he must be entitled for pensionary benefits calculating his service as 60 years or age. Being aggrieved of denial of his pay for the two years extended period, he has preferred W.A(MD)No.1306 of 2011 and the State being aggrieved by the direction to calculate his length of service of the Writ Petitioner as 60 years, has preferred W.A(MD)No.706 of 2010.

4. The point for consideration in these Writ Appeals is as to whether there can be notional continuation of service for the sake of pensionary benefits or Writ Appellant Perumal should be treated on par with the case of Pandaram and to be provided with monetary benefit and also salary for the period for which he was denied the extension of service?



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5. Before advertizing to the above said facts, this Court records the fact that a common memo filed on behalf of Perumal reporting that he died and his legal heirs are not interested in pursuing the matter further.

6. Apart from the above said fact that the legal heirs are not interested in pursuing the matter further and due to the death of Perumal, his Writ Appeal has got abated, this Court is convinced about the fact that any person who is entitled for the relief shall seek the remedy within a reasonable time and even to seek parity, there must be some justification for delay in resorting to legal remedy.

7. In G.O.Ms.No.202, Municipal Administration and Water Supply Department, dated 16.10.2008 has sought to be given retrospective effect after five years of superannuation. If any relief is granted to a person who has approached the Court belatedly, it will have a cascading consequences in the administration as well as in the revenue of the State exchequer. There cannot be any parity with Pandaram, who approached the Court in time and got the remedy and for the said reason, this Court allowed the Writ Appeal filed by him and set aside the order passed by the learned Single Judge insofar as granting of



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pensionary benefit with notional period of service as 60 years.

8.For the reasons aforesaid, W.A(MD)No.706 of 2010 filed by the State is allowed and WA(MD)No.1306 of 2011 filed by the Writ Petitioner is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

[G.J.,J.] [R.P.,J.]
18.02.2025

NCS : Yes/No
Index : Yes / No
Internet : Yes / No
vsn

To

- 1.The Secretary to Government,
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Chennai -600 009.
- 2.The Director of Municipal Administration,
Chepauk,
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- 3.The Commissioner,
Tenkasi Municipality,

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Tenkasi,
Tirunelveli District.

4.The Director,
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4th Floor,
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DR.G.JAYACHANDRAN, J.
and
R.POORNIMA, J.

vsn

COMMON JUDGMENT MADE IN

W.A(MD)Nos.1306 of 2011 and 706 of 2010
and
M.P(MD)Nos.1 of 2010 and 3 of 2011

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