



W.P.(MD) No.394 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.394 of 2022

and

W.M.P.(MD) No.305 of 2022

R.Raja Mariappan

... Petitioner

-VS-

1.The District Collector
Tuticorin District

2.The Accountant General
O/o.Accountant General
No.361, Anna Salai
Chennai-600 015

3.The Block Development Officer
Tuticorin, Tuticorin District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the impugned order passed by the 2nd respondent in his proceedings No.P03/1/10324375/ADK/390 dated 17.03.2020 quash the same and consequently direct the 2nd respondent to count the 50 percentage of service of



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the petitioner in the non-provincialised service as the Panchayat Clerk with effect from 01.12.1991 to 02.09.2009 for the purpose of granting pension and pay other benefits together with 18 percent interest within time limit fixed by this Court.

For Petitioner : Mr.D.Selvanayagam

For Respondents : Mr.S.S.Madhavan
Additional Government Pleader for R1 & R3
Mr.S.Gunasekaran
Standing Counsel for R2

ORDER

This writ petition has been filed challenging the impugned order, dated 17.03.2020, passed by the second respondent, rejecting the petitioner's request to count 50% of his service in the non-provincialised service as Panchayat Clerk with effect from 01.12.1991 to 02.09.2009 for the purpose of granting pension and other benefits, on the ground that the petitioner is not eligible for the relief sought for in this writ petition, since he has been brought under regular establishment as Junior Assistant only with effect from 03.09.2009 i.e., only after 31.03.2003, which is the cut-off date.

2. As seen from the affidavit filed in support of this writ petition, the petitioner became a Government servant by being appointed as Junior



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Assistant only with effect from 03.09.2009. His salary was payable by the Government only from 03.09.2009. It is the undisputed fact that the petitioner's past service as Panchayat Clerk prior to 03.09.2009 was paid by the Panchayat and not by the Government.

3. The law is now well settled by the decision rendered by the Full Bench of this Court in the case of **Government of Tamil Nadu and others vs. R.Kaliyamoorthy**, rendered in W.A.No.158 of 2016, dated 03.12.2019, and reported in **2019 (6) CTC 705**, wherein, the Full Bench has issued directions with regard to the applicability of the Old Pension Scheme to the Government servants and the said directions are re-produced hereunder:

- “(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 Nadu Pension Rules, 1978 inserted by G.O.Ms.No. 259 dated 06.08.2003.*
- “(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*



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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."*

4. As seen from the aforesaid directions, the petitioner is not eligible for the relief sought for in this writ petition, since he became a Government servant through his appointment as Junior Assistant only on 03.09.2009.

5. Rule 11(4) of the Tamil Nadu Pension Rules, 1978, also makes it clear that the petitioner is not eligible for the relief sought for in this writ petition and the same is re-produced hereunder:



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“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.”

6. As seen from from the first proviso to Rule 11(4) of the Tamil Nadu Pension Rules, 1978, it is clear that the petitioner ought to have been



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absorbed in regular service as a Government servant before 1st April, 2003.

But, in the case on hand, the petitioner admittedly became a Government servant being appointed as Junior Assistant only on 03.09.2009.

7. For the foregoing reasons, this Court does not find any infirmity in the impugned order passed by the second respondent.

8. In the result, there is no merit in this writ petition. Accordingly, this writ petition is dismissed. However, the dismissal of this writ petition will not prevent the petitioner to apply for any other benefits under the Tamil Nadu Pension Rules, 1978, which the petitioner is legally entitled to. No costs. Consequently, connected miscellaneous petition is closed.

04.09.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The District Collector,
Tuticorin District.
- 2.The Block Development Officer,
Tuticorin, Tuticorin District.



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ABDUL QUDDHOSE, J.

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