BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2025

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THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.951 of 2025

P.Jeyapaul ... Petitioner

Vs.

1.The Principal Accountant General (A&E),
No.361, Annasalai,
Chennai.

2.The State of Tamilnadu,
Represented by the Secretary,
Finance Department, Chennai.

3.The Commissioner,
Treasuries and Accounts Department,
Chennai.

4.The Treasury Officer,
Tuticorin District-628 101. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to notionally fix the annual increments from the date of initial increment i.e. on 10.12.1990 and to disburse the monetary benefits from 24.06.1995 and further directing the respondents to revise the service benefits, retirement benefits and to disburse the same within the time frame fixed by this Court by considering the representation given by the petitioner, dated 03.01.2025.

For Petitioner	:	Mr.K.Vinoharan
For R1	:	M/s.Chamundi Bose
For R2	:	Mr.S.Shaji Bino Special Government Pleader
For R3 & R4	:	Mr.A.Baskaran Additional Government Pleader

ORDER

The present writ petition has been filed by a retired Junior Assistant seeking a mandamus to notionally fix the annual increment from the date of initial appointment and to disburse the monetary benefits from 24.06.1995 and further direct the respondents to revise the service benefits and retirement benefits.

2. The petitioner herein was originally appointed as a Junior Assistant on 10.12.1990 and he was ousted from service on 28.02.1991. The Government had taken a policy decision to absorb them by conducting a special qualifying

examination through the Tamil Nadu Public Service Commission. Accordingly, a special qualifying examination was conducted on 24.06.1995. The petitioner herein had applied for the said examination and passed the said examination. However, appointment orders were issued to the writ petitioner only on 05.02.1997, as Bill Collector. The petitioner had attained superannuation on 31.03.2011. It is the grievance of the writ petitioner that the period during which he was out of employment, for no fault on his part, should have been taken into consideration as a qualifying service for the purposes of calculating pension. If that period is taken into consideration he would have crossed the qualifying service of 10 years.

3. According to the learned counsel appearing for the writ petitioner, the entire period between 28.02.1991 and 05.02.1997 have been treated as break in service and it has been completely excluded. The learned counsel appearing for the petitioner had relied upon G.O.(Ms) No.89, Personnel and Administrative Reforms (P) Department, dated 28.07.2020 and contended that as per the said Government Order, the services have to be regularized from the date of their

initial appointment and any break in service prior to ousting, should also be regularized as per Rule 25 of Tamil Nadu Pension Rules.

4. The learned counsel appearing for the petitioner has also relied upon the judgment of the learned Single Judge of this court in a batch of writ petitions in W.P.Nos.34752 of 2022 etc., batch cases, dated 18.03.2024, wherein this Court has considered the case of a similarly placed employee wherein a direction has been issued to sanction retirement benefits by counting the period of service rendered by the petitioner therein, including the period of break in service with payment of revised pension and other retirement benefits.

5. Per contra, the learned Additional Government Pleader appearing for the respondents 1, 3 and 4 relied upon G.O.(Ms) No.89, Personnel and Administrative Reforms (P) Department, dated 28.07.2020 and contended that the period of interruption shall not be counted as a qualifying service. He further contended that the petitioner was appointed as a Bill Collector only after two years from the date of conducting special examination. Therefore, the services of the petitioner can be calculated only from the date of his

appointment as a Bill Collector and not from the date of the special examination. Hence, he prayed for dismissal of the writ petition.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. It is not in dispute that the petitioner who was temporarily appointed as a Junior Assistant in the year 1990 was ousted from service in the year 1991. The petitioner appeared in the special examination conducted by the Tamil Nadu Public Service Commission on 24.06.1995 and he had cleared the said examination. However, appointment orders were issued to the writ petitioner only on 05.02.1997. Therefore, there is no fault on the part of the writ petitioner for the non employment period between 28.02.1991 and 05.02.1997.

8. In such circumstances, this Court is of the considered opinion that as per G.O.(Ms) No.89, Personnel and Administrative Reforms (P) Department, dated 28.07.2020, in Clause 9 (c), the said period should be taken into consideration for the calculation of pensionable service. The learned Single

Judge of this Court in W.P.Nos.34752 of 2022 etc., batch cases, dated 18.03.2024, had passed orders in favour of similarly placed persons. This Court is inclined to follow the said order.

9. In view of the above said deliberations, the respondents are directed to treat the period between 28.02.1991 to 05.02.1997 as pensionable service and sanction pension to the writ petitioner and disburse the pensionary benefits along with arrears within a period of twelve weeks from the date of receipt of a copy of this order.

10. With the above said observations, this Writ Petition stands allowed to the extent as stated above. No costs.

31.01.2025

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

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To

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No.361, Annasalai,
Chennai.

2.The State of Tamilnadu,
Represented by the Secretary,
Finance Department, Chennai.

3.The Commissioner,
Treasuries and Accounts Department,
Chennai.

4.The Treasury Officer,
Tuticorin District-628 101.

R.VIJAYAKUMAR, J.

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