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)Nos.952 & 953 of 2025

A.Manuelraj ... Petitioner
(In W.P(MD)No.952/2025)

P.Senthoor ... Petitioner
(In W.P(MD)No.953/2025)

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
(In both cases)

Prayer in W.P(MD)No.952 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the Impugned Order No.PO3/3/10329747/ADK, dated 09.04.2024 on the file of the 1st respondent and quash the same and further directing the respondents to notionally fix the year wise annual increment from the date of initial appointment i.e. 06.12.1990 and to disburse the monetary benefits w.e.f 24.06.1995 and further directing the respondents to revise the service and retirement benefits and to disburse the same within the time frame stipulated time by this Court.

Prayer in W.P(MD)No.953 of 2025 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the Impugned Order No.PO3/2/10328932/ADK, dated 31.10.2023 on the file of the 1st respondent and quash the same and further directing the respondents to notionally fix the year wise annual increment from the date of initial appointment i.e. 10.01.1991 and to disburse the monetary benefits w.e.f 24.06.1995 and further directing the respondents to revise the service and retirement benefits and to disburse the same within the time frame stipulated time by this Court.

(In both cases):

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

COMMON ORDER

The present writ petitions have been filed by retired Junior Assistants challenging the order passed by the 1st respondent herein wherein the break period of service has been excluded for calculating the period of pension.

2. The petitioners were appointed as Junior Assistants and later they were ousted from service for want of vacancy. 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 petitioners herein had applied for the said examination and they have passed the said examination. However, the appointment orders were issued to the writ

petitioners only in the year 1997. The petitioners had already attained superannuation.

3. It is the grievance of the writ petitioners that the period during which they were out of employment, for no fault on their part, should have been taken into consideration as a qualifying service for the purpose of calculating pension and annual increment. Seeking the said benefits, the petitioners have given their representations to the authorities concerned. Since the representations were rejected, the present writ petitions have been filed.

4. According to the learned counsel appearing for the writ petitioners, the entire period between the date of initial appointment and the date of reappointment should be treated as service period. The learned counsel appearing for the petitioners 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, their services have to be regularised from the date of their initial appointment and the monetary benefits have to be disbursed with effect from 24.06.1995.

5. The learned counsel appearing for the petitioners 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 employees, wherein a direction has been issued to sanction retirement benefits by counting the period of service rendered by the petitioners therein, including the period of break in service with payment of revised pension and other retirement benefits.

6. Per contra, the learned Standing Counsel appearing for the first respondent and the learned Special Government Pleader appearing for the second respondent and the learned Additional Government Pleader appearing for the respondents 3 and 4 had contended that the period of interruption shall not be counted as a qualifying service. They further contended that the petitioners were appointed only after two years from the date of conducting special examination. Therefore, the services of the petitioners can be calculated only from the date of their reappointment in the year 1997 and not from the date

of the special examination. Hence, they prayed for dismissal of the writ petitions.

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

8. It is not in dispute that the petitioners, who were temporarily appointed as a Junior Assistants in 1991 and ousted from service, have appeared in the special examination conducted by the Tamil Nadu Public Service Commission on 24.06.1995 and they have passed the said examination. However, appointment orders were issued to the writ petitioners only in September 1997. Therefore, there is no fault on the part of the writ petitioners for the non employment period between 24.06.1995 and the date of reappointment.

9. A perusal of the G.O(Ms) No.89, Personnel and Administrative Reforms (P) Department, dated 28.07.2020, reveals that in all cases where the candidates have passed the special qualifying examination, the services have to

be regularised from the date of their initial appointment. That apart, they are entitled to get annual increments notionally from the date of their initial appointment. However, they will be entitled to monetary benefits only from 24.06.1995. In view of the above said Government Order it is clear that all the petitioners would be entitled to calculation of annual increment notionally from the date of their initial appointment. However, the monetary benefits could be disbursed only from 24.06.1995.

10. In view of the above said deliberations, the orders impugned in the writ petitions are set aside and the respondents are directed to fix notional increment from the date of initial appointment of the writ petitioners and confer monetary benefits with effect from 24.06.1995. The concerned Head of the Departments are directed to forward the revised pension proposals to the Principal Accountant General Office within a period of twelve (12) weeks from the date of receipt of a copy of this order.

11. With the above said observations, both the Writ Petitions stand 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

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

2.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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