



W.A(MD)Nos.1275 to 1281 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.06.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A(MD)Nos.1275 to 1281 of 2025

W.A(MD)No.1275 of 2025:

R.Sundararaj

... Appellant /
Writ Petitioner

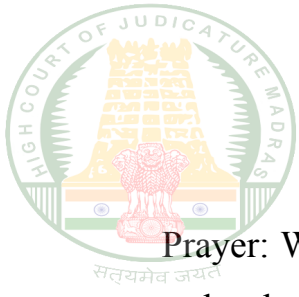
Vs.

1.The State represented by
The Secretary to Government,
Rural Development Department,
Secretariat, Fort.St.George,
Chennai – 9.

2.The Commissioner /
Director of Survey & Settlement,
Chepauk,
Chennai – 600 005.

3.The District Collector,
Collectorate,
Sivagangai District,
Sivagangai.

... Respondents /
Respondents



W.A(MD)Nos.1275 to 1281 of 2025

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 09.06.2023 made in W.P(MD)No.3183 of 2019 and allow the Writ Appeal.

For Appellant : Mr.M.Saravanakumar

For Respondents : Mr.A.Kannan
Additional Government Pleader

W.A(MD)No.1276 of 2025:

M.Beer Mohammed

... Appellant /
Writ Petitioner

Vs.

1.The State represented by
The Secretary to Government,
Rural Development Department,
Secretariat, Fort.St.George,
Chennai – 9.

2.The Commissioner /
Director of Survey & Settlement,
Chepauk,
Chennai – 600 005.

3.The District Collector,
Collectorate,
Dindigul.

... Respondents /
Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 09.06.2023 made in W.P(MD)No.3184 of 2019 and allow the Writ Appeal.



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W.A(MD)Nos.1275 to 1281 of 2025

For Appellant : Mr.M.Saravanakumar

For Respondents : Mr.A.Kannan
Additional Government Pleader

W.A(MD)No.1277 of 2025:

G.N.Prakash

... Appellant /
Writ Petitioner

Vs.

1.The State represented by
The Secretary to Government,
Rural Development Department,
Secretariat, Fort.St.George,
Chennai – 9.

2.The Commissioner /
Director of Survey & Settlement,
Chepauk,
Chennai – 600 005.

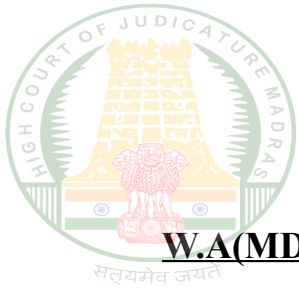
3.The District Collector,
Collectorate,
Theni.

... Respondents /
Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 09.06.2023 made in W.P(MD)No.3185 of 2019 and allow the Writ Appeal.

For Appellant : Mr.M.Saravanakumar

For Respondents : Mr.A.Kannan
Additional Government Pleader



W.A(MD)Nos.1275 to 1281 of 2025

W.A(MD)No.1278 of 2025:

WEB COPY S.Prabakaran

... Appellant /
Writ Petitioner

Vs.

1.The State represented by
The Secretary to Government,
Rural Development Department,
Secretariat, Fort.St.George,
Chennai – 9.

2.The Commissioner /
Director of Survey & Settlement,
Chepauk,
Chennai – 600 005.

3.The District Collector,
Collectorate,
Sivagangai District,
Sivagangai.

... Respondents /
Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 09.06.2023 made in W.P(MD)No.3186 of 2019 and allow the Writ Appeal.

For Appellant : Mr.M.Saravanakumar

For Respondents : Mr.A.Kannan
Additional Government Pleader

W.A(MD)No.1279 of 2025:

G.Muthusamy

... Appellant /
Writ Petitioner



W.A(MD)Nos.1275 to 1281 of 2025

Vs.

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- 1.The State represented by
The Secretary to Government,
Rural Development Department,
Secretariat, Fort.St.George,
Chennai – 9.
- 2.The Commissioner /
Director of Survey & Settlement,
Chepauk,
Chennai – 600 005.
- 3.The District Collector,
Collectorate,
Theni.

... Respondents /
Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 09.06.2023 made in W.P(MD)No.3187 of 2019 and allow the Writ Appeal.

For Appellant : Mr.M.Saravanakumar

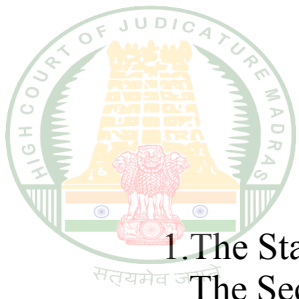
For Respondents : Mr.A.Kannan
Additional Government Pleader

W.A(MD)No.1280 of 2025:

S.Chithambaram

... Appellant /
Writ Petitioner

Vs.



W.A(MD)Nos.1275 to 1281 of 2025

1.The State represented by
The Secretary to Government,
Rural Development Department,
Secretariat, Fort.St.George,
Chennai – 9.

2.The Commissioner /
Director of Survey & Settlement,
Chepauk,
Chennai – 600 005.

3.The District Collector,
Collectorate,
Madurai.

... Respondents /
Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 09.06.2023 made in W.P(MD)No.3188 of 2019 and allow the Writ Appeal.

For Appellant : Mr.M.Saravanakumar

For Respondents : Mr.A.Kannan
Additional Government Pleader

W.A(MD)No.1281 of 2025:

M.Mayilsamy

... Appellant /
Writ Petitioner

Vs.

1.The State represented by
The Secretary to Government,



W.A(MD)Nos.1275 to 1281 of 2025

Rural Development Department,
Secretariat, Fort.St.George,
Chennai – 9.

2.The Commissioner /
Director of Survey & Settlement,
Chepauk,
Chennai – 600 005.

3.The District Collector,
Collectorate,
Sivagangai District,
Sivagangai.

... Respondents /
Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 09.06.2023 made in W.P(MD)No.3189 of 2019 and allow the Writ Appeal.

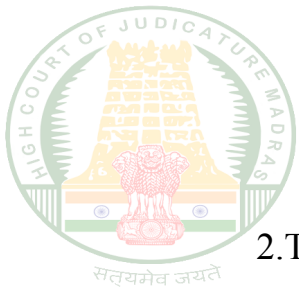
For Appellant : Mr.M.Saravanakumar

For Respondents : Mr.A.Kannan
Additional Government Pleader

COMMON JUDGMENT

(Judgment of the Court was made by **G.R.Swaminathan J.**)

Heard both sides.

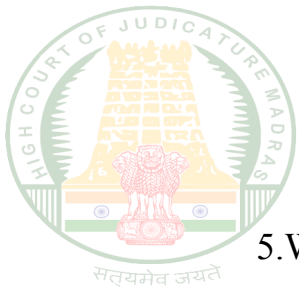


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2.The appellants herein were appointed as field surveyors cum draftsmen on consolidated pay vide proceedings dated 11.03.1983. They were subsequently absorbed in Rural Development Department in the year 1994. The only question that arises for consideration is whether the entire service of the appellants on consolidated basis in the Survey Department can be reckoned for pensionary purposes. The stand of the Government is that only half of such service can be taken into account. Challenging the order of the Government, the appellants herein filed W.P(MD)No.3183 & 3189 of 2019. The learned single Judge vide order dated 09.06.2023 dismissed the Writ Petitions. Hence these Writ Appeals came to be filed.

3.The learned counsel appearing for the appellants reiterated all the contentions set out in the grounds of Appeal. He also pointed out that in respect of similarly placed employees, the Government had already issued G.O (3D) No.33 Public Works (C1) Department dated 03.11.2016 taking into account the entire length of service by invoking Rule 82 of Tamil Nadu Pension Rules, 1978 and relaxing the rigor of Rule 11(4).

4.Per contra, the learned Additional Government Pleader submitted that the order passed by the learned single Judge does not call for interference.



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5. We carefully considered the rival contentions and went through the

WEB materials on record.

6. It is not in dispute that the appellants herein had served in the Survey Department as field surveyors only on consolidated pay basis. From the year 1983 till 1994, they had served only in such capacity. Of course, in the year 1994 they were absorbed in Rural Development Department. Rule 11(4) of the Tamil Nadu Pension Rules, 1978 states that half of the service rendered under the State Government in provincialised service on consolidated pay alone will be taken into account when they are subsequently absorbed in regular service for retirement benefits along with regular service.

7. Rule 11(4) of the Tamil Nadu Pension Rules, 1978 reads as follows:

“(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;



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(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”.

8. The only question that calls for consideration is whether the Government can be mandated to relax the rigor of the aforesaid Rule by invoking Rule 82. Rule 82 of the Tamil Nadu Pension Rules, 1978 is as follows:



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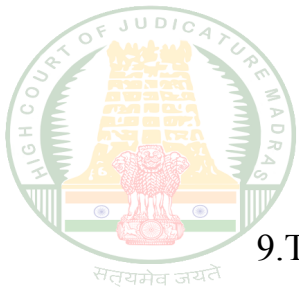


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“**82. Power to relax** - Where any Department of the Government is satisfied that the operation of any of these rules causes undue hardship in any particular case, the Department may by order for reasons to be recorded in writing, dispense with or relax the requirements of that rule to such extent and subject to such exceptions and conditions as it may consider necessary for dealing with the case in a just and equitable manner:

Provided that no such order shall be made except with the concurrence of the Finance Department. ”

The Hon'ble Supreme Court in the decision made in *Civil Appeal No.6868 of 2021 dated 22.11.2021 (State of U.P vs. Vikash Kumar Singh)* held that since the word used in the relevant rule is “**may**”, the relaxation may be at the discretion of the competent authority and cannot be prayed as a matter of right. It was further held that if a conscious decision is taken not to grant relaxation, merely because Rule permits relaxation, no writ of mandamus can be issued directing the competent authority to grant relaxation. In *M.Maheswaran vs. The Principal Secretary (WP(MD)No.13704 of 2015 dated 10.07.2019)*, a learned Judge of this Court held that where the power of relaxation is conferred upon the Government, the court cannot usurp the power and directly or indirectly effect a relaxation.



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9.The Hon'ble Supreme Court in the decision reported in (1993) 2 SCC 486 (*State of Orissa vs. Sukanti Mohapatra*) held that a Rule conferring power to relax rules should be strictly construed. Rule 82 can be invoked only to obviate undue hardships in any particular case. The hardship must be result of the operation of any of the Rules set out in the Pension Rules. Rule 11(4) which holds that half of the service put in by an employee prior to his absorption in the regular cadre is a beneficial provision. It is in fact a concession. The application of the said Rule cannot be said to cause hardship. We, therefore, do not find any ground to direct the government to exercise the power of relaxation.

9.The G.O relied on by the learned counsel for the appellants' counsel runs counter to Rule 11(4). The Government appears to have issued the said G.O to avoid contempt proceedings. It is a case of illegality. A wrong order passed in one case cannot be relied upon to seek an identical relief. That would amount to perpetuating illegality. The learned Additional Government Pleader draws our attention to the decision of the Full Bench judgment reported in *MANU/TN/1517/2021 (The State & Others Vs S.Rajaram & Others)*. Paragraph 19 of the said order reads as follows:



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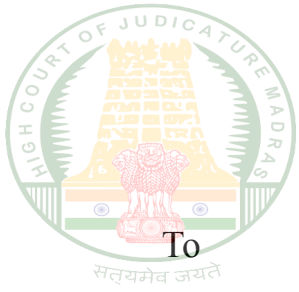
“19.It is well settled that Article 14 of the Constitution of India cannot be invoked for perpetuating illegality. A wrong order passed in one case cannot be made the basis for compelling a public authority to pass similar order in any other case. Even if the State implements an erroneous order passed by the Court, it cannot be precluded from challenging a similar order passed in another case, simply because appeal was not preferred in the earlier case (Paragraph No.17 in State of Madhya Pradesh Vs. Ramesh Chandra Bajpai, reported in MANU/SC/1497/2009 : (2009) 13 SCC 635).”

10.We are therefore of the view that G.O(3D)No.33 Public Works (C1) Department dated 03.11.2016 relied on by the learned counsel for the appellants will not come to the rescue of the appellants. The learned Single Judge had approached the issue from a proper legal perspective and the order of the learned single Judge cannot be faulted. We do not find any merit in these Writ Appeals.

11.These Writ Appeals stand dismissed. There shall be no order as to costs.

[G.R.S., J.] [K.R.S., J.]
04.06.2025

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



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To

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Rural Development Department,
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- 6.The District Collector,
Collectorate,
Madurai.



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G.R.SWAMINATHAN, J

and

K.RAJASEKAR, J.

MGA

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04.06.2025