BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A(MD)No.504 of 2019
and
C.M.P(MD)No.4319 of 2019

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Government of Tamil Nadu,
Uthamar Gandhi Salai,
Nungambakkam High Road,
Chennai – 34.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Government of Tamil Nadu,
Sacchidhananda Mooppanar Salai,
Thanjavur – 613 003. ... Appellants 1 & 2/Respondents 1 & 2

3.The State of Tamil Nadu,
Represented by its Principal Secretary,
Hindu Religious and Charitable Endowments Department,
Secretariat, Fort St. George,
Chennai. ... 3rd Appellant/5th Respondent

vs.

1.N.Kannan (died) ... 1st Respondent/Writ Petitioner

2.The Managing Director,
Tamil Nadu State Construction Corporation Limited,
Jawaharlal Nehru Salai, Jai Nagar,
Inner Ring Road, Arumbakkam,
Chennai – 600 103.

3.The Chief Engineer,
Highways & Rural Works and Minor Ports Department,
Chepauk,
Chennai – 600 005. ... Respondents 2 & 3/Respondents 3 & 4

4.K.Mala
5.K.Sabareeswaran
6.Sowntharya Lakshmi
7.S.Pradeepa ... Respondents 4 to 7/Legal heirs of the deceased first respondent

(Since R.1 died, R.4 to R.7 were brought on record as legal heirs of the deceased first respondent vide order dated 05.06.2025 in C.M.P(MD)No.4963 of 2025)

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 18.01.2019 made in W.P(MD)No.10396 of 2015 on the file of this Court.

For Appellants	: Mr.R.Baskaran Additional Advocate General Assisted by Mr.S.P.Maharajan Special Government Pleader
For R – 1	: Died
For RR 2 & 3	: No appearance
For RR 4 to 7	: Mr.H.Velvadhas

JUDGMENT

(Judgment of the Court was delivered by S.M.SUBRAMANIAM, J.)

The Writ Order dated 18.01.2019 passed in W.P(MD)No.10396 of 2015 is under challenge in the present intra-court appeal.

2.The State is the appellant herein.

3.Pending the Writ Appeal, the first respondent died and his legal heirs were brought on record as respondents 4 to 7 in the Writ Appeal.

4.The deceased first respondent was appointed as a Junior Assistant on 01.07.1984 in the Tamil Nadu State Construction Corporation Limited, Chennai, a public sector undertaking. He completed his probation period and was promoted to the post of Assistant Grade on 14.05.2003. He was upgraded to the post of Selection Grade Assistant on 28.02.2005. He was subsequently absorbed as a contract employee in the Hindu Religious and Charitable Department (in short hereinafter referred to as 'the HR & CE Department') in view of the fact that the Tamil Nadu State Construction Corporation Limited sustained huge loss and unable to run the company. In order to provide employment to the employees working in the Tamil Nadu State Construction Corporation Limited, the Government has made an attempt to absorb these employees in various Departments wherever vacancies are available. This was a concession granted by the Government. Government company if closed or wound up, the employees are entitled to the benefits as applicable under the Service Rules or under the scheme framed for winding up of a company. However, in the present case, the Government provided alternate employment, since the Tamil Nadu State Construction Corporation Limited was a State-owned undertaking.

5.Consequently, the deceased first respondent was appointed as a contract employee in the HR & CE Department. On completion of two years of service, a proposal for his permanent absorption was sent to the Government. The Government considered the proposal sent by the Commissioner, HR & CE Department and issued G.O.Ms.No.172, Tamil Development, Hindu Religious Endowment and Information (R.E.2-1) Department, dated 01.07.2009. The proposal was submitted in respect of 14 employees, who are accommodated in the HR & CE Department. The Government Order unambiguously states that alternate employment and regularization as a permanent absorption in a sanctioned post were granted to these employees, subject to the terms and conditions. As per the conditions stipulated in the said Government Order, pay protection alone will be granted to these employees. However, in respect of promotion, seniority and other service benefits, the services rendered by them in the Tamil Nadu State Construction Corporation Limited will not be considered. Therefore, the employees served in the Tamil Nadu State Construction Corporation Limited were permanently absorbed in the HR & CE Department on condition that their pay will be protected, but the services rendered in the Tamil Nadu State Construction Corporation Limited will not be taken into consideration for grant of promotion or any other benefits.

6.The conditions in G.O.Ms.No.172, Tamil Development, Hindu Religious Endowment and Information (R.E.2-1) Department, dated 01.07.2009, were issued based on the common directives issued by the Finance Department (Nodal Department) in G.O.Ms.No.27, Finance (BPE) Department, dated 24.01.2007. The said Government Orders speaks about the terms and conditions for the permanent absorption of employees from State public sector undertaking/Co-operative institutions.

7.Para 3(v) of the Government Order in G.O.Ms.No.27, Finance (BPE) Department, dated 24.01.2007, reads as follows:

> *"(v) The employees to be absorbed in the undertakings/Government Departments will be given pay protection. However they will not be given any service rights for the purpose of promotion, selection grade appointments etc."*

8.Clause (ix) of the Government Order in G.O.Ms.No.27, Finance (BPE) Department, dated 24.01.2007 reads as under:

> *"(ix) The employees of State Public Sector Undertakings/Co-operatives working on deputation/contract with the other state Public Sector Undertakings/Government Departments may be considered for permanent absorption only after they completed two years of service in the foreign body. It is also clarified that the permanent absorption in the SPSUs, Government Departments will take effect from the date from which they are continuously working in the foreign body on deputation/contract."*

9.Accordingly, permanent absorption was given to the erstwhile employees of the Tamil Nadu State Construction Corporation Limited in the HR

& CE Department. The terms and conditions prescribed for permanent absorption of State public sector undertakings issued by the Government has been followed. Pertinently, the service conditions agreed upon between the employer and employee at the time of appointment cannot be altered to the disadvantage of the employee subsequently. This being the principle, in the present case, the employees, who were permanently absorbed, accepted the terms and conditions of absorption in the HR & CE Department and subsequently served and retired from service on attaining the age of superannuation.

10.Government employment is contractual. The service conditions are binding on both the employer and employees. Once the service conditions are accepted by the employee, they are binding and the employees are not entitled to claim any other benefits which are all not governed under the service conditions. This Rule would be equally applied to the employer also.

11.Having accepted the terms and conditions of employment at the time of permanent absorption into the Government Department from the State owned undertaking, the employees cannot turn around and claim other benefits including pension etc., based on the services rendered by them in the Tamil Nadu

State Construction Corporation Limited. However, these employees are entitled for the benefits that are applicable under the Rules prevailed for the employees in the Tamil Nadu State Construction Corporation Limited.

12.Mr.R.Baskaran, learned Additional Advocate General appearing for the appellants would submit that all applicable benefits under the service rules of the Tamil Nadu State Construction Corporation Limited will be given to the deceased first respondent and they have no objection for disbursement of such benefits. Asfar as the services rendered in the HR & CE Department is concerned, permanent absorption was given in the year 2006 and therefore, the deceased first respondent is entitled to the benefits under the Contributory Pension Scheme (new pension scheme). The said benefits also will be granted to the deceased first respondent as per the terms and conditions stipulated in the Contributory Pension Scheme. The learned Additional Advocate General would further submit that the benefits for the services in entirety rendered by the deceased first respondent in the Tamil Nadu State Construction Corporation Limited will be settled and equally the services rendered in the HR & CE Department also will be settled under the Contributory Pension Scheme. However, the deceased first respondent is not eligible to avail the benefits under the old pension scheme or any other benefits which are not applicable to the permanently absorbed employees from the Tamil Nadu State Construction Corporation Limited.

13.In view of the fact that the deceased first respondent is entitled for service benefits, the appellants are directed to settle the service benefits for the services rendered by the deceased first respondent in the Tamil Nadu State Construction Corporation Limited separately, as conceded by them, to the respondents 4 to 7. Equally, the service benefits applicable for the employees in HR & CE Department are also to be settled to the respondents 4 to 7, who are the legal heirs of the deceased first respondent, under the Contributory Pension Scheme (new pension scheme). The said payments are directed to be settled by the appellants within a period of twelve weeks from the date of receipt of a copy of this order. Asfar as the impugned writ order is concerned, the relief granted is not in consonance with the service conditions and Rules applicable to the Tamil Nadu State Construction Corporation Limited which is a State owned undertaking and the HR & CE Department.

14.Accordingly, the writ order impugned dated 18.01.2019 passed in W.P(MD)No.10396 of 2015 is set aside and the Writ appeal stands allowed with the above directions. There shall be no as to costs. Consequently, connected Miscellaneous Petition is closed.

[S.M.S.,J.] & [A.D.M.C.,J.]
05.06.2025
(1/2)

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

To

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Government of Tamil Nadu,
Uthamar Gandhi Salai,
Nungambakkam High Road,
Chennai – 34.

2.The Assistant Commissioner,
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3.The Principal Secretary,
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S.M.SUBRAMANIAM, J.
and
DR.A.D.MARIA CLETE, J.

ps

ORDER MADE IN
W.A(MD)No.504 of 2019

DATED : 05.06.2025
(1/2)