



W.A(MD).No.1302 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 30.10.2025

PRONOUNCED ON : 06.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

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and

CMP(MD).No.7460 of 2020

1.The Government of Tamil Nadu
Rep.by its Secretary
Social Welfare and Noon Meal Program
Chennai – 6

2.The Director of Social Welfare
Social Welfare Department
Chinthathiripet, Chennai

3.The District Social Welfare Officer
Kanyakumari District
Kanyakumari

...Appellants/Respondents

Vs

Vishnu Kumari Ammal

....Respondent/Writ Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the judgment dated 08.01.2020 in WP(MD).No.9016 of 2013 on the file of this Hon'ble Court.



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For Petitioners : Mr.S.R.A.Ramachandran
Additional Government Pleader

For Respondent : M/s.S.K.Bhavithra
For Mr.A.Haja Mohideen

J U D G M E N T

(Made by **R.VIJAYAKUMAR,J.**)

The respondents in W.P(MD).No.9016 of 2013 have preferred this writ appeal challenging the order dated 08.01.2020 wherein a mandamus has been issued to sanction pension to the writ petitioner.

(A).Facts of the case:

2.The respondent herein was initially appointed as a Child Welfare Organizer on temporary basis under Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules on 31.07.1980. She was promoted as Women Rural Welfare Officer and she had attained superannuation on 28.02.2010. Relying upon G.O.(Ms).No.408 Finance (Pension) Department, dated 25.08.2009 and G.O.(Ms).No.6 Social Welfare and Nutritious Meals Scheme Department dated 06.01.2010, the writ petitioner has preferred the above writ petition seeking a mandamus to grant pension considering her entire service.

3.The writ Court found that the writ petitioner has put in 27 years of service and therefore, the Government, being an employer ought to have



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regularised the services of the petitioner at least after completion of 10 years of service as per the decision of the Hon'ble Supreme Court. In case, if her services had been regularised, the writ petitioner would be entitled to get her pension. Therefore, due to fault on the part of the Government, the petitioner is being made to suffer. The writ Court further found that despite lapse of 7 years, the respondents have not filed any counter.

4. Based upon the above said findings, the writ Court directed the State to consider the case of the petitioner as a special case and obtain necessary approval and pay pension to the writ petitioner. This order is put to challenge in the present writ appeal.

(B).Submissions of the learned counsel appearing on either side:

5. According to the learned Additional Government Pleader appearing for the appellants, the services of the writ petitioner were never regularised. He had further contended that G.O.Ms.No.408 dated 25.08.2009 is applicable only to those candidates who were brought into regular service before 01.04.2003. On the other hand, the petitioner is receiving the special pension as per G.O.Ms.No.391, dated 15.09.2008. He had further contended that G.O.(Ms).No.6 has no application and this is applicable only to Teachers, Superintendent, Grade II and Multi-Speciality Health Workers who were employed under Noon Meal Scheme or Integrated Child Development Programme and the same is not applicable to the writ petitioner.



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6.The learned Additional Government Pleader had further contended that the entire 27 years of service of the writ petitioner is an non-pensionable service and ultimately, the writ petitioner was granted special pension under G.O.Ms.No.391 dated 15.09.2008. He had relied upon the Full Bench decision of this Court reported in **2019 (6) CTC 705** (*The Government of Tamil Nadu Rep. by Secretary to Government, Public Works Department, Secretariat, Chennai and others Vs. R.Kaliyamoorthy and others*) to impress upon the Court that the candidates who were not brought into regular service before 01.04.2003 are not entitled to receive pension. The case of the petitioner cannot be treated as a special case and if it is done, it will open the flood gates. Hence, he prayed for allowing the writ appeal.

7.Per contra, the learned counsel appearing for the respondent/writ petitioner submitted that the petitioner's appointment was in a sanctioned post under Rule 10(a)(i) of the Tamil Nadu State and Subordinate Service Rules. She was promoted and given time scale of pay. Therefore, the said services have to be considered as a regular service. It was further contended that merely because formal regularisation order was not passed by the authorities, the entire service of the writ petitioner cannot be wiped out on the ground that it is a temporary service. It was further contended that at least 50% of the said service should have been taken into account for reckoning pensionable



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services of the writ petitioner. Government Orders have been passed in favour of several individuals granting exemption from the pensionable service and hence, the appeal would not prejudice in any manner in extending the said benefit to the writ petitioner as a special case. Therefore, she prayed for sustaining the order passed by the writ Court.

8. We have considered the submissions made on either side and perused the material records.

(C).Discussion:

9. The fact that the writ petitioner was appointed on a temporary basis under Rule 10(a)(i) of the Tamil Nadu State and Subordinate Service Rules and she continued to be a temporary employee till her retirement on 28.02.2010 are not in dispute. Till her retirement, her services were never regularised. For invoking Rule 11(4) of Tamil Nadu Pension Rules, even though initially the appointment might have been on a temporary basis, yet absorption in regular service should have taken place prior to 01.04.2003 in order to get the benefits under Tamil Nadu Pension Rules, 1978. In the present case, admittedly, the petitioner's services were never absorbed in regular service till her retirement on 28.02.2010.

10. The Hon'ble Full Bench of our High Court in a judgment reported in **(2019) 6 CTC 705** has categorically held that the candidates appointed under Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules would be



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entitled to receive pension only if they are absorbed in regular service prior to 01.04.2003. Admittedly, the petitioner has not been regularised or absorbed into regular service prior to 01.04.2003. Thousands of temporary employees have not been absorbed into regular service even after 01.04.2003. In such circumstances, if the case of the petitioner is treated as a special case and benefits are extended to her, it would certainly open the flood gates. During her entire period of service, the petitioner has never prayed for regularisation of her service. The present writ petition has been filed three years after the date of retirement.

(D).Conclusion:

11.In view of the above said deliberations, the order of the writ Court is not sustainable in the eye of law and the same is set aside. The writ appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(C.V.K.J.,)

(R.V.J.,)

06.11.2025.

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AND
R.VIJAYAKUMAR,J.**

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