



W.P.(MD)No.9546 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2025

**CORAM:
THE HON'BLE MR JUSTICE R.VIJAYAKUMAR**

**W.P.(MD)No.9546 of 2023
and WMP(MD).No.25890 of 2023**

S.Maria Xavier

... Petitioner

Vs.

1.The State of Tamil Nadu
Represented by its Secretary
Public Works Department
St.George Fort, Chennai 600 009

2.The Chief Engineer
Public Works Department
Water Resource Department
Chepauk, Chennai 600 005

3.The Executive Engineer
Public Works Department
Water Resources Department
Kodayar Basin Sub Division
Nagercoil, Kanyakumari District

4.The Assistant Executive Engineer
Public Works Department
Water Resource Department
Kodayar Basin Sub Division
Thuckalay, Kanyakumari District

.....Respondents



W.P.(MD)No.9546 of 2023

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned communication of the fourth respondent herein vide his proceedings in letter No.Ko.4/2643/2022 dated 26.10.2022 and the consequential communication of the third respondent herein in his proceedings in Letter No.E1/3222/2022 dated 17.11.2022 and quash the same as illegal and consequently direct the respondents herein to calculate 50% of the petitioner's temporary service period from 01.06.1993 to 30.06.2004 as the qualifying service along with the regular service period from 01.07.2004 to 31.05.2015 and grant pension to the petitioner with all consequential monetary benefits within a time stipulated by this Court.

For Petitioner : Mr.C.Kishore

For Respondents : Mr.D.Sasikumar
Additional Government Pleader

ORDER

The instant writ petition has been filed by a retired Irrigation Assistant challenging the order of the fourth respondent dated 26.10.2022 and the consequential communication of the third respondent dated 17.11.2022 wherein the request of the petitioner for calculating 50% of his past temporary services was rejected.



W.P.(MD)No.9546 of 2023

WEB COPY

2.The petitioner herein was initially appointed as Mazdoor Grade-I/NMR in the Public Works Department on 01.06.1993. The Government of Tamil Nadu issued G.O.Ms.No.235 Public Works (C2) Department 30.11.2017 regularising the services of the writ petitioner and others with effect from 01.07.2004. The petitioner has attained superannuation on 31.05.2015. Thereafter, the petitioner has sent a representation on 18.07.2022 seeking to reckon 50% of his past temporary services. The said request was rejected under the impugned order dated 26.10.2022 by the fourth respondent which was communicated to the writ petitioner by the third respondent on 17.11.2022.

3.According to the learned counsel for the writ petitioner, the petitioner's service as a temporarily employee between 01.06.1993 till 30.06.2004, have to be taken into consideration for the purposes of granting pension. Since the petitioner's services have been regularised with effect from 01.07.2004, the said benefit should be extended to the writ petitioner.

4.The learned Additional Government Pleader appearing for the respondents had contended that the petitioner's services have been regularized after 01.04.2003 and hence, he is not eligible to calculate 50% of his past services.



W.P.(MD)No.9546 of 2023

WEB COPY

5.I have considered the submissions made on either side and perused the material records.

6.As per Full Bench decision of this Court in ***W.A.No.158 of 2016 etc., batch*** reported in ***2019 (6) CTC 705 (Government of Tamil Nadu and others Vs. R.Kaliyamoorthy)*** dated ***01.04.2003***, the Government servants who were appointed temporarily and later absorbed after 01.04.2003 would not be entitled to count half of their past services for the purpose of determination of qualifying service for pension. In the present case, the petitioner was appointed as a temporary staff on 01.06.1993, but absorb into regular service only on 01.07.2004.

7.In view of the judgement of the Hon'ble Full Bench of this Court, the petitioner would not be eligible to reckon 50% of his past services for the purpose of calculating pensionary benefits. There is no infirmity or illegality in the order passed by the respondents. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08.01.2025

Index : Yes/No



W.P.(MD)No.9546 of 2023

WEB COPY

Internet : Yes/No

NCC: : Yes/No

To

1.The Secretary
State of Tamil Nadu
Public Works Department
St.George Fort, Chennai 600 009

2.The Chief Engineer
Public Works Department
Water Resource Department
Chepauk, Chennai 600 005

3.The Executive Engineer
Public Works Department
Water Resources Department
Kodayar Basin Sub Division
Nagercoil, Kanyakumari District

4.The Assistant Executive Engineer
Public Works Department
Water Resource Department
Kodayar Basin Sub Division
Thuckalay, Kanyakumari District



WEB COPY



W.P.(MD)No.9546 of 2023

R.VIJAYAKUMAR, J.

msa

W.P.(MD)No.9546 of 2023
and WMP(MD).No.25890 of 2023



WEB COPY



W.P.(MD)No.9546 of 2023

08.01.2025