



W.P.(MD)No.7044 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2025

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THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.7044 of 2019

P.Thillaipalam

... Petitioner

Vs.

- 1.The Secretary,
Registration Department,
Fort St.George,
Chennai-600 009.
- 2.The Inspector General of Registration,
Santhom High Road,
Chennai-600 028.
- 3.The Sub-Registrar,
Sub-Registration Office,
Moolaikaraipatti,
Nanguneri Post,
Tirunelveli District.
- 4.The Assistant Elementary Educational Officer,
Nanguneri, Tirunelveli District.
- 5.The District Librarian,
District Library,
Palayamkottai,
Tirunelveli.
- 6.The Assistant Director,
Land Survey Department (UDR)
Tirunelveli.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the second respondent in his proceedings No.24195/D1/2018 dated 08.10.2018 and quash the same as illegal and consequently direct the respondents to count the 50% of the temporary service of the petitioner from January 1985 to 1987 in Survey Department, from 16.10.2000 to 10.07.2003 in Library Department, from 11.07.2003 to 17.02.2010 in Education Department, thus for a total qualifying 50% of service ie., 6 years out of total temporary service of 12 years in the respondents 4 to 6 departments along with the regular service of the pensioner in Registration Department from 17.02.2010 to 31.01.2017 being the date of retirement of the petitioner to sanction the retirement benefits and other pensionary benefits for the total period of 13 years; both temporary and regular service.

For Petitioner : Mr.M.Pounraj

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.

ORDER

Under assail is the order dated 08.10.2018 passed by the second respondent rejecting the claim of the petitioner with regard to the pension benefits.



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2.It is the case of the petitioner that he had rendered temporary service for the period from January 1985 to 31.12.1987 in the Revenue Department. Subsequently, he was worked in the Library Department from 16.10.2000 to 10.07.2003 and then, he joined and worked in the Education Department as Junior Assistant on consolidated pay of Rs.4000/- from 11.07.2003 to 16.02.2010. In the meantime, he has passed TNPSC departmental test and he was absorbed in regular time scale of pay for the period from 17.02.2010 to 31.01.2017 in the Registration Department as Junior Assistant till the date of superannuation on 31.01.2017. The petitioner had rendered in total period of service of 19 years and five months and as such, he is entitled to get pension benefits in terms of Rule 11 of the Tamil Nadu Pension Rules. Hence, the writ petition.

3.The learned counsel appearing for the petitioner would submit that the petitioner is entitled to count temporary service rendered for the purpose of calculating pension benefits as per term Rule 11 of the Tamil Nadu Pension Rules. He would submit that 50% of the temporary service can be calculated for the purpose of pensionary benefits along



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with regular service. Therefore, the order impugned is liable to be set aside and a direction may be issued to the respondents to count 50% of the temporary service of the petitioner for total qualifying service.

4.Per contra, the learned Additional Government Pleader appearing for the respondents would submit that the petitioner had worked in Education Department on consolidated pay as Junior Assistant from 14.07.2003 to 16.02.2010. For passing special test conducted by TNPSC, he was appointed as Junior Assistant in regular time scale of pay on 17.02.2010 and retired from service on superannuation on 31.01.2017. He would submit that the proviso clause under Rule 1(2) of the Tamil Nadu Pension Rules shall not apply to the Government servants appointed on or after 01.04.2003 to services and posts in connection with the affairs of the state which are borne on pensionable establishment, whether temporary or permanent. The petitioner was recruited before his appointment as regular service, he was rendered only on consolidated pay and that service cannot be taken into account as qualifying service for pension.

5.This Court has considered the submissions made on either side and perused the available records.



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6.It is not in dispute that the petitioner had worked in Educational Department on consolidated pay as Junior Assistant from 14.07.2003 to 16.02.2010. Thereafter, the petitioner chosen to participate in special test conducted by TNPSC and thereafter, he came to be appointed as Junior Assistant in regular time scale of pay on 17.02.2010 and he retired from service on attaining superannuation on 31.01.2017.

7.According to the petitioner, 50% of the service rendered on consolidated pay has to be counted as qualified service for the purpose of pension. At this juncture, it is relevant to refer Rule 1 of the Tamil Nadu Pension Rules, 1978, which reads as follows:-

1.Short title and commencement - (1) These rules may be called the Tamil Nadu pension Rules, 1978.

(2) they shall be deemed to have come into force on the 1st January 1979.

"Provided that these rules shall not apply to Government Servants appointed on or after the 1st April 2003, to services and posts in connection with the affairs of the State which are borne on pensionable establishments, whether temporary or permanent."

It is pertinent to mention that Rule 1(2) of the Tamil Nadu Pension Rules shall not apply to the Government servants who appointed on or



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after 01.04.2003 to services and posts in connection with the affairs of the state which are borne on pensionable establishment, whether temporary or permanent. Rule 11(4) of the Tamil Nadu Pension Rules states that half of the service rendered in State Government in consolidated pay, in respect of Government servant, employees absorbed in regular service before first April 2003 shall be counted for retirement benefits along with regular service. In the instant case on hand the petitioner was recruited to regular service with effect from 17.02.2010. Hence, the service rendered by the petitioner on consolidated pay before his absorption in regular capacity cannot be taken into account as a for pension benefits. There is no merits in this writ petition and the same is liable to be dismissed.

8.In the result, this writ petition is dismissed. No costs.

NCC : Yes / No
Index : Yes / No
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M.JOTHIRAMAN, J.

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