



W.A.(MD)No.248 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.12.2025

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

W.A.(MD)No.248 of 2021

The Commissioner,
Tuticorin City Municipal Corporation,
Tuticorin.

... Appellant

Vs.

1.S. Packianathan

2.The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Fort St. George, Chennai - 600 005.

3.The Municipal Administration Commissioner,
Ehiligam, Chepauk,
Chennai - 600 005.

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD).No.2935 of 2015 dated 19.12.2018 on the file of this Court.



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For Appellant : Mr.N.Anandkumar

For Respondents : Mr.S.S.Madhavan,
Addl. Government Pleader for R2 & R3.
No appearance for R1

JUDGMENT
(By G.R.SWAMINATHAN, J.)

This writ appeal has been filed by the Commissioner, Tuticorin City Municipal Corporation questioning the order dated 19.12.2018 passed by the learned Single Judge allowing W.P.(MD)No.2935 of 2015 filed by the first respondent herein.

2.The case of the first respondent / writ petitioner is that he joined the appellant corporation as NMR. His services were regularized on 23.02.2006. The writ petitioner contended that he is entitled to come under the old pension scheme. Challenging the stand of the employer, W.P.(MD)No.2935 of 2015 was filed.

3.The learned Single Judge allowed the writ petition on the ground that the issue raised in this writ petition was squarely covered by the an



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earlier order of this Court made in W.P.Nos.22741 of 2015 etc batch
(Gnanavel and Others Vs. The Secretary to Government, Municipal
Administration and Water Supply Department and Others).

4.The question that calls for consideration is whether the order
passed by the learned Single Judge warrants interference.

5.There is no appearance on the side of the first respondent / writ
petitioner. But we do not propose to adjourn this writ appeal on this
ground. It is because the issue is squarely covered by the decision of the
Hon'ble Full Bench reported in **(2019) 6 CTC 705 (Government of
Tamil Nadu and others vs. R.Kaliyamoorthy)**. Paragraph No.45 of the
said decision reads as follows:-

*“45. In the light of the above, we answer the reference as
follows:*

*(i) Those who are freshly appointed on or after
01.04.2003 are not entitled to pension in view of proviso to Rule
2 of Tamil Nadu Pension Rules, 1978 inserted by G.O. Ms. No.
259 dated 06.08.2003.*



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(ii) Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.

(iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.

(iv) Those government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed into regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.

(v) Those government servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.”



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6.The case on hand attracts Clauses (iii) and (iv) of the above directions. Admittedly, the writ petitioner was rendering service only on daily wages basis prior to 01.04.2003. His services were regularized only in the year 2006 that is after the cut off date. Therefore, the question of counting even half of his past service for the purpose of pension will not arise at all. Consequently, he also will not be entitled to any benefit of old pension scheme also.

7.Respectfully applying the ratio and directions laid down by the Hon'ble Full Bench, we set aside the order of the learned Single Judge and the writ appeal is allowed. No costs.

(G.R.S. J.) & (R.K.M. J.)
17.12.2025

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

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- 2.The Municipal Administration Commissioner,
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