



W.P(MD)No.22300 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.22300 of 2025

and

W.M.P(MD)No.17430 of 2025

L.Johnson

... Petitioner

Vs.

1. The Secretary to Government,
Department of Municipal Administration and Water Supply,
Fort St. George,
Chennai - 600 009.
2. The Director of Municipal Administration,
Commissionerate of Municipal Administration,
6th Floor, Ezhilagam
Annexe Building, Chepauk,
Chennai 600 005.
3. The Commissioner,
Tirunelveli City Municipal Corporation,
S.No. High Road,
Tirunelveli 627 001.
4. The Assistant Director,
Directorate of Local Fund Audit,
Perasiriyar Anbalagan Complex,
4th Floor, Integrated Office Building for
Finance Department, Nandanam,

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5. The Commissioner
Kuzhithurai Municipality,
Thiruvananthapuram Road,
Vettuvani Junction,
Marthandam Post-629165.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ Certiorarified Mandamus, to call for the records relating to the impugned proceedings passed by the 4th respondent herein vide Moo.Mu.No.394788/NaOoSa(4)/2024 dated 13.01.2025 and quash the same and consequently direct the 4th respondent to grant pension and retirement benefits to the petitioner based on the proposal of the 5th respondent dated 09.06.2023 within a time frame fixed by this Court.

For Petitioner : Mr.C.Rajakumar

For Respondents : Mr.K.Blasubramanian
Special Government Pleader
for R1, R2 & R4

: Mr.P.Athimoolapandian
for R5



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ORDER

This writ petition has been filed for issuance of a writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings passed by the 4th respondent herein vide Moo.Mu.No. 394788/NaOoSa(4)/2024 dated 13.01.2025 and quash the same and consequently direct the 4th respondent to grant pension and retirement benefit s to the petitioner based on the proposal of the 5th respondent dated 09.06.2023 within a time frame fixed by this Court.

2. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that the petitioner was initially appointed on 06.07.2000 as Helper on temporary basis on consolidated pay. Thereafter his service was regularized on 23.02.2006. Further, he was promoted as Wireman in the year 2014. Thereafter he was placed under the New Pension Scheme since he was not appointed prior to 01.04.2003 when the old pension was in force. Subsequently, the petitioner retired on



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30.04.2023 and thereafter he was not given old pension and he was only given pension under the CPS scheme since he was made permanent only after 01.04.2003. However, the learned counsel for the petitioner submitted that when the petitioner was appointed on 06.07.2000 ie., prior to 01.04.2003, he ought to have given old pension scheme since his appointment is prior to 01.04.2003. Whereas citing the time scale of pay given in the year 2006 and rejecting the old pension scheme and giving new pension scheme which is impermissible one. Earlier the employer rejected the petitioner's request on 04.07.2024 because the same was rejected by the audit department/4th respondent which is not sustainable accordingly, he prayed for appropriate orders.

4. The learned Special Government Pleader appearing for the respondents would submit that the petitioner was appointed on consolidated pay in the year 2000. However, he was conferred time scale of pay only in the year 2006, ie., after introduction of the new pension scheme from 01.04.2003. Since he was not given permanent appointment prior to 01.04.2003, he was only getting consolidated payment. When a



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person is receiving consolidated payment, he is not entitled for claiming old pension scheme. The petitioner is well aware that he was under contributory pension scheme after 01.04.2023 till 30.04.2023. During his tenure he has not taken any effective steps to restore his pension under the old pension scheme and after retirement without challenging the order passed by the employer, namely, 5th respondent dated 04.07.2024, the consequential order cannot be challenged. Accordingly he prayed for dismissal of the writ petition.

6. This Court has carefully considered the rival submissions made on either side and perused the materials placed on record.

7. It is not in dispute that the petitioner was initially appointed on 06.07.2000 as a Helper purely on temporary basis and was paid only consolidated wages. The petitioner was not brought under regular time scale of pay until 23.02.2006, which is subsequent to the introduction of the New Pension Scheme with effect from 01.04.2003. Thus, it is clear that he was not appointed prior to 01.04.2003 when the



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old pension was in force. The petitioner retired subsequently on 30.04.2003. The settled legal position is that mere appointment on consolidated pay or on temporary basis prior to 01.04.2003 would not confer a vested right to claim the benefits of the Old Pension Scheme. Only those employees, whose services were regularized and brought under time scale of pay prior to 01.04.2003, are alone entitled to such benefit. In the present case, since the petitioner was regularized only in 2006, he squarely falls under the New Pension Scheme.

8. The contention of the petitioner that his initial date of appointment in the year 2000 ought to be reckoned for extending the Old Pension Scheme cannot be accepted, as the said appointment was only on consolidated pay and not against a sanctioned post carrying time scale of pay. Further, the order of rejection passed by the employer on 04.07.2024 has attained finality and has not been properly challenged in the manner known to law.



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9. In view of the above, this Court is of the considered opinion that the claim of the petitioner is not legally sustainable. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
PJL

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4. The Assistant Director,
Directorate of Local Fund Audit,

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WEB COPY Perasiriyar Anbalagan Complex,
4th Floor, Integrated Office Building for
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M.DHANDAPANI,J.

PJL

**ORDER MADE IN
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DATED : 18.08.2025

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