



W.A(MD)No.1353 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

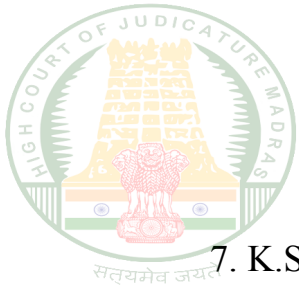
**W.A(MD)No.1353 of 2018
and
C.M.P(MD)No.9660 of 2018
in
W.P.(MD) No.1280 of 2018**

The Executive Officer,
Manamadurai Town Panchayat,
Sivagangai District.

... Appellant

Vs

1. A.Karunakaran(Died),
2. The Director of Town Panchayat,
Kuralagam, Chennai 108.
3. The Collector,
Sivagangai District.
4. The Assistant Director Town Panchayat,
Sivagangai District.
5. K.Jayalakshmi
6. K.Silapathimoorthy



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7. K.Silambarasan,

... Respondents

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***(K.Silapathimoorthy is recognised as power agent
on behalf of R7 - K.Silambarasan, vide court
order dated 28.11.2024 made in
C.M.P(M)No.16792/2024 in
W.A(MD)No.1353/2018 by this Court)***

***(*R5 to R7 /LRs of the deceased R1 are substituted
vide court order dated 19.12.2024 made in C.M.P(MD)No.18277 of
2024
in W.A(MD)No.1353/2018 by this Court)***

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed by the learned Single Judge in W.P(MD)No. 1280/2018 dated 13.02.2018.

For Petitioner : Mr.A.Kathiravan
for Mr.K.Saravanan

For Respondent : Mr.S.P.Maharajan (R2 to R4)
Special Government Pleader

: Mr.V.Karthikeyan (R5-R7)

JUDGMENT

[Judgment of the Court was made by S.M.SUBRAMANIAM, J.]

The writ order dated 13.02.2018 passed in W.P(MD)No.1280 of 2018 is under challenge in the present writ appeal.



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2.The present writ appeal has been instituted by the Executive Officer, Manamadurai Town Panchayat. The deceased first respondent was appointed in the year 1991 on temporary basis. However, his services were regularised in the sanctioned post in the time scale of pay only on 01.12.2007 after implementation of the new pension scheme w.e.f 01.04.2003. The deceased first respondent filed a writ petition stating that his temporary services is to be reckoned and he must be granted pension under the old pension scheme i.e. Tamil Nadu Pension Rules, 1978.

3.The issue regarding applicability and eligibility of the pension rules are elaborately considered by the Hon'ble Full Bench of this Court in the case of ***Government of Tamil Nadu Vs.R.Kaliyamoorthy*** in W.A.No.158 of 2016 etc. dated 03.12.2018.

4.The reference answered by the Hon'ble Full Bench of this Court reads as under:

"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



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to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003.

(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."

5.Let us now consider the Tamil Nadu Pension Rules (Old Pension Scheme) Rule 1 enumerates that (1)"these rules may be called the Tamil Nadu Pension Rules, 1978" and (2) "They shall be deemed to have come into force on 1st January 1979". Proviso clause to Rule 2 unambiguously stipulates that Tamil Nadu Pension Rules 1978 shall not apply to Government Servants, who are appointed on or after 1st April 2003 to



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services and post in connection with affairs of the State which are borne on the pensionable establishments.

6. Therefore, only if an appointment whether temporary or permanent is made against a pensionable establishment in a sanctioned post, then alone, the services are to be reckoned for the purpose of grant of pension under the Tamil Nadu Pension Rules. The employees brought under the regular establishments after 01.04.2003 are not eligible to avail the benefit of the old pension scheme and they are brought under the new pension scheme i.e. Contributory pension scheme.

7. In the present case, the services of the respondent are regularised w.e.f 01.12.2007 and therefore, he is eligible to receive pension under the new pension scheme i.e. contributory pension scheme. If the said benefits are not paid, the appellants are directed to settle the pensionary benefits under the contributory pension scheme to the legal heirs of the deceased employee, within a period of twelve weeks from the date of receipt of a copy of this order.



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8.As far as the writ order is concerned, it is not in consonance with the reference answered by the Hon'ble Full Bench of this Court cited supra as well as the Tamil Nadu Pension Rules, 1978 (Old Pension Scheme). Thus, the writ order impugned is set aside. Accordingly, the present writ appeal is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

[S.M.S., J.] [A.D.M.C., J.]
19.06.2025

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

LR

To

1. The Executive Officer,
Manamadurai Town Panchayat,
Sivagangai District.

2.The Director of Town Panchayat,
Kuralagam, Chennai 108.

3. The Collector,
Sivagangai District.

4. The Assistant Director Town Panchayat,
Sivagangai District.

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S.M.SUBRAMANIAM, J.
and
DR.A.D.MARIA CLETE, J.

LR

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