



W.A(MD)Nos.2115 to 2129 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.08.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND**

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A(MD)Nos.2115 to 2129 of 2024

and

**C.M.P.(MD) Nos. 14980, 14982, 14983, 14986, 14988, 14985, 14987,
14989, 14992, 14993, 14991, 14994, 14996, 14998, 14999 of 2024**

For W.A(MD)No.2115 to 2117 of 2024

- | | |
|-------------------|---|
| 1.K.P.Sankar | ... Appellant
in W.A(MD)No.2115/2024 |
| 2.Balasubramanian | ... Appellant
in W.A(MD)No.2116/2024 |
| 3.Chinnadurai | ... Appellant
in W.A(MD)No.2117/2024 |

Vs

1. Secretary to Government,
State of Tamilnadu,
Municipality Administration and Water Supply Department,
Chennai.



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2. The Commissioner,
Municipal Administration,
Ezhilagam, Chepauk,
Chennai-600005.

3. The Commissioner,
Thoothukudi Municipality Commissioner Office,
Thoothukudi.

... Respondents

For W.A(MD)Nos.2118 to 2129 of 2024

4.Arul ... Appellant
in W.A(MD)No.2118/2024

5.Ganesan ... Appellant
in W.A(MD)No.2119/2024

6.Jeeva ... Appellant
in W.A(MD)No.2120/2024

7.Arumugam ... Appellant
in W.A(MD)No.2121/2024

8.Maharajan ... Appellant
in W.A(MD)No.2122 /2024

9.Moorthy ... Appellant
in W.A(MD)No.2123/2024

10.Murugan ... Appellant
in W.A(MD)No.2124/2024

11.Murugavel ... Appellant
in W.A(MD)No.2125/2024

12.Sakthi Lingam ... Appellant
in W.A(MD)No.2126/2024



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13.Sankar

... Appellant
in W.A(MD)No.2127/2024

14.P. Thevapiran

... Appellant
in W.A(MD)No.2128/2024

15.Udaiyar

... Appellant
in W.A(MD)No.2129/2024

Vs

1. Principal Secretary to Government,
Chief Secretariat,
State of Tamilnadu,
Municipal Administration and Water Supply Department,
Chennai-600 009.

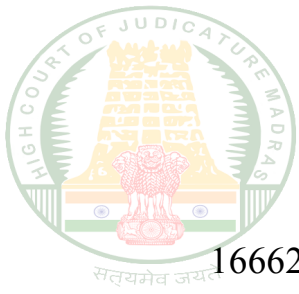
2.The Commissioner,
Municipal Administration,
No.3, M.R.C.Nagar,
Raja Annamalaipuram,
Chennai-600 028.

3. The Commissioner,
Corporation Office,
113, Palayamkottai Road,
Thoothukudi.

... Respondents

PRAYER in W.A(MD)No.2115/2024: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P(MD)No. 16661/2023, dated 19.09.2024 by allowing this writ appeal.

PRAYER in W.A(MD)No.2116/2024: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P(MD)No.



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16662/2023, dated 19.09.2024 by allowing this writ appeal.

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PRAYER in W.A(MD)No.2117/2024: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P(MD)No. 16663/2023, dated 19.09.2024 by allowing this writ appeal.

PRAYER in W.A(MD)No.2118/2024: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P(MD)No. 17745/2023, dated 19.09.2024 by allowing this writ appeal.

PRAYER in W.A(MD)No.2119/2024: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P(MD)No. 17746/2023, dated 19.09.2024 by allowing this writ appeal.

PRAYER in W.A(MD)No.2120/2024: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P(MD)No. 17747/2023, dated 19.09.2024 by allowing this writ appeal.

PRAYER in W.A(MD)No.2121/2024: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P(MD)No. 17748/2023, dated 19.09.2024 by allowing this writ appeal.

PRAYER in W.A(MD)No.2122/2024: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P(MD)No. 17749/2023, dated 19.09.2024 by allowing this writ appeal.



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PRAYER in W.A(MD)No.2123/2024: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P(MD)No. 17750/2023, dated 19.09.2024 by allowing this writ appeal.

PRAYER in W.A(MD)No.2124/2024: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P(MD)No. 17751/2023, dated 19.09.2024 by allowing this writ appeal.

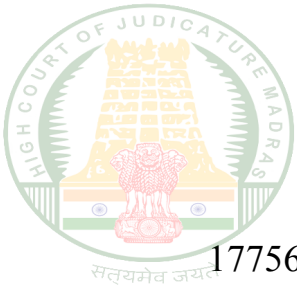
PRAYER in W.A(MD)No.2125/2024: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P(MD)No. 17752/2023, dated 19.09.2024 by allowing this writ appeal.

PRAYER in W.A(MD)No.2126/2024: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P(MD)No. 17753/2023, dated 19.09.2024 by allowing this writ appeal.

PRAYER in W.A(MD)No.2127/2024: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P(MD)No. 17754/2023, dated 19.09.2024 by allowing this writ appeal.

PRAYER in W.A(MD)No.2128/2024: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P(MD)No. 17755/2023, dated 19.09.2024 by allowing this writ appeal.

PRAYER in W.A(MD)No.2129/2024: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order passed in W.P(MD)No.



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17756/2023, dated 19.09.2024 by allowing this writ appeal.

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For Appellants : Mr.P.Thirumahilmaran
(for all cases)

For Respondent : Mr.S.P.Maharajan (R1-R2)
Special Government Pleader
(for all cases)

: Mr.N.Anand Kumar (R3)
Standing Counsel
(for all cases)

COMMON JUDGMENT

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

The present intra Court appeals have been instituted to assail the writ orders dismissing the claim of the appellants to grant the pensionary benefits under the old pension scheme i.e., Tamil Nadu Pension Rules, 1978.

2.The appellants were appointed as NMR (Nominal Muster Roll) in Tuticorin Municipality. After serving as NMRs for few years, representations were submitted seeking regularization of their services.



Since the claim for regularization and permanent absorption was declined by the Municipality, the aggrieved temporary employees approached the writ Court. The writ Court passed an order on 17.12.1999 as follows:

"The concerned Authority of the first respondent Township Municipality is directed to undertake the exercise of deciding each individual case where the petitioners have completed 240 days and they shall be reinstated with all backwages and other benefits. If they have completed 240 days, their services should be regularised. This exercise should be completed within two months. If the authority comes to a conclusion that the employees/petitioners have not worked for 240 days provided for mala fide or ulterior consideration, he should give an opportunity and no adverse order will be passed against the petitioner without giving an opportunity of hearing. If any adverse order will be passed against the petitioners, the same will be kept under suspension for one month from the date of passing the order and intimated to them. The petitioners are at liberty to seek appropriate relief in accordance with law. It is not disputed that the employees (petitioners) are still continuing in service, So till final order is passed as directed above, the status quo should be maintained."



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3.The Commissioner, Tuticorin Municipality preferred writ appeal in W.A.No.1524 of 2000 and the Hon'ble Division Bench in the Principal Seat of this Court disposed of the writ appeal on 16.03.2006. Paragraph No.6 of the order reads as under:

"5. The learned counsel appearing for the appellant fairly states that during the pendency of the writ appeal, in view the order issued in the contempt proceedings, the services of most of the persons working in Tuticorin Municipality were regularised subject to G.O. Ms. No.125, Municipal Administration and Water Supply (M.B.III) Department dated 27.5.1999.

6. A verification of the order of the learned single Judge shows that the same contention was raised before the learned Judge and the learned single Judge, in para 7 of his order, considered the same and thereafter issued the directions as mentioned above. A perusal of the direction shows that it is the concerned Municipalities/Townships which have to undertake the exercise of deciding the claims of different individuals and find out whether he or she has completed 240 days of service and depending on the outcome, they shall be reinstated with all benefits. We are of the view that the course adopted and the ultimate direction issued cannot be faulted with. Inasmuch as it is the



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Municipality which has to verify the number of days worked/completed by the respondents from and out of their records, we do not find any error or valid ground for interference. Accordingly, the appeal fails and the same is dismissed. No costs."

4.The Commissioner, Tuticorin Municipality filed a review application in Rev.Apl.No. 28 of 2008, which was also dismissed by the Hon'ble Division Bench in the Principal Seat of this Court, by order dated 25.02.2008. The Municipality preferred SLP in Civil No. 11669-11670 of 2008 and the Hon'ble Supreme Court of India passed the following orders:

"Having considered the submissions made on behalf of the parties, while we are inclined to allow the appeal, we are also inclined to consider the submissions made on behalf of the workmen. Accordingly, we allow the appeal and set aside the judgment and order of the learned Single Judge dated 17th December, 1999 in WP No. 17569 of 1993 as also the impugned judgment of the Division Bench of the High Court only, so far as the direction to pay back wages is concerned. The other parts of the judgment shall remain the same.



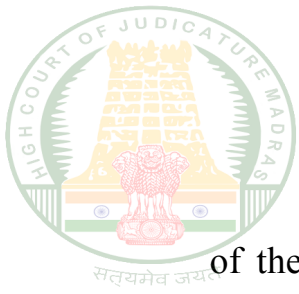
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In addition to the above, we also direct that if any representation is made by the category of workmen, indicated hereinabove for considering their case on a separate basis on account of the ban which had been imposed on recruitment, the same should be considered by the appellant-Municipality on their merits within two months of such representation being on received by them."

5.Pursuant to the orders, the cases of the individual employees were considered by verifying their service records by the Municipal authorities. Admittedly, few employees were granted regularization w.e.f 1999. However, the appellants herein, secured the benefit of regularization from the year 2006. Since the services of the appellants were regularized w.e.f., 2006, they were made eligible to avail the benefit under the Contributory Pension Scheme (New Pension Scheme).

6.The learned Counsel for the appellants would submit that initially the learned Single Judge considered all these aspects and issued a direction. The Hon'ble Division Bench confirmed the same. The Hon'ble Supreme Court, while setting aside the order of the writ Court and writ appellate Court, clarified that except back wages, the other parts



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of the judgment shall remain the same. Therefore, the appellants are also entitled to be regularized w.e.f 1999. They are entitled to avail the pensionary benefits under the Old Pension Rules i.e., Tamil Nadu Pension Rules, 1978.

7.The learned Special Government Pleader and the learned Standing Counsel appearing on behalf of Tuticorin Municipality would oppose by stating that there was no direction to regularize the services of these temporary employees with retrospective effect. Both the writ order and writ appeal order as well as the order of the Hon'ble Supreme Court is to consider the cases of the temporary employees for grant of regularization. The regularization was granted based on the services rendered by the temporary employees on individual basis. Admittedly, the services of the appellants were regularized from the year 2006. The order of regularization remains unchallenged. The learned Single Judge also considered in the writ order impugned. Thus, the writ appeals ought to be rejected.

8.The writ order, dated 17.12.1999 reveals that the writ Court

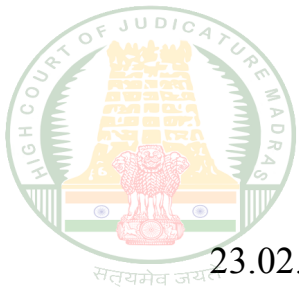


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directed to consider the claim for regularization on case to case basis and based on the service particulars. The writ Court further states that "if any adverse order will be passed against the petitioners, the same will be kept under suspension for one month from the date of passing of the order and intimated to them. The petitioners are at liberty to seek appropriate relief in accordance with law". The Hon'ble Division Bench in its judgment dated 16.03.2006 confirmed the order of the writ Court. The Hon'ble Division Bench clarified that the Municipality has to undertake the exercise of deciding the claim of different individuals and find out whether he or she has completed 240 days of service and depending on the outcome, they shall be reinstated with all benefits.

9.The writ order as well as the writ appeal order were set aside by the Hon'ble Supreme Court in respect of the back wages. Therefore, the appellants cannot rely on the Hon'ble Division Bench order. In respect of the finding regarding other benefits to be granted, as per the judgment of the Hon'ble Supreme Court, the cases of the temporary employees were considered on individual basis. Consequently, regularization was granted w.e.f. 2006 as far as the appellants are concerned in G.O.Ms.No.21 dated



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23.02.2006 is challenged. The said Government order has not been challenged nor the Government order issued in G.O.Ms.No.126 dated 20.02.2004 is challenged. All the appellants have admitted the date of regularization, served in the municipality and attained the age of superannuation. The learned Single Judge considered these grounds elaborately and made a finding that the appellants were admittedly regularized only from the year 2006 and therefore, they are entitled to get the terminal benefits under the new Contributory Pension Scheme.

10.As far as the Tamil Nadu Pension Rule, 1978 is concerned, Rule 2 proviso clause stipulates that (Provided that these rules shall not apply to the Government servants appointed on or after 1st April, 2003 to services and posts in connection with the affairs of the State which are borne on the pensionable establishment, whether temporary or permanent). Admittedly, the petitioners were brought under the regular establishment in the sanctioned post under the pensionable establishment in the year 2006. That being so, they are entitled for the benefits under the new Contributory Pension Scheme and thus, the writ Court has rightly arrived at a conclusion that the appellants are not entitled to avail



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the benefit of the old pension scheme under the Tamil Nadu Pension Rules, 1978. The legal position has been further settled by the Hon'ble Full Bench of this Court in the case of ***Government of Tamil Nadu Vs. Kaliyamoorthi*** reported in ***2019 (6) STC 705***, which is also relied on by the writ Court.

11.For all these reasons, we do not find any reason to interfere with the writ orders and consequently, the same stand confirmed.

12.Accordingly, the writ appeals are dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

[S.M.S., J.] [G.A.M., J.]
14.08.2025

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

LR



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To

1. Secretary to Government,
State of Tamilnadu,
Municipality Administration and Water Supply Department,
Chennai.

2. The Commissioner,
Municipal Administration,
Ezhilagam, Chepauk,
Chennai-600005.

3. The Commissioner,
Thoothukudi Municipality Commissioner Office,
Thoothukudi.

4. The Commissioner,
Municipal Administration,
No.3, M.R.C.Nagar,
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Chennai-600 028.

5. The Commissioner,
Corporation Office, 113,
Palayamkottai Road,
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S.M.SUBRAMANIAM, J.
and
G.ARUL MURUGAN, J.

LR

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