



W.A.(MD)No.2177 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.08.2025

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

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K.Vijayan

... Appellant

Vs.

1.The Chairman Cum Managing Director
Tamil Nadu Generation and Distribution
Corporation Limited,
NPKRR Maligai, 144, Anna Salai,
Chennai – 2.

2.The Superintending Engineer,
Madurai Electricity Distribution Circle / Metro,
K.Pudur, Madurai – 7.

3.Madurai Corporation,
Represented by its Commissioner,
Anna Maligai, Madurai.

... 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.12742 of 2022 dated 22.08.2024 on the file of this Court.



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For Appellant : Mr.D.Venkatesh

For Respondents : Mr.B.Ramanathan,
Standing Counsel for R1 & R2.

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

Heard both sides.

2.The appellant was working in the Electricity Wing of Madurai Corporation. Subsequently, the entire wing was taken over by Tamil Nadu Electricity Board in the year 1995. The appellant herein was appointed in TNEB on 01.05.1995. However, his services were directed to be counted with effect from 01.01.1993. The appellant retired from service on 31.03.2011. The appellant invoked Rule 11(4) of the Tamil Nadu Pension Rules, 1978 and called upon the employer to include 50% of the service put in by him on daily wages in Madurai Corporation. The appellant's request was rejected by the Superintending Engineer, Madurai Electricity Distribution Circle / Metro, K.Pudur, Madurai – 7 vide order



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dated 08.03.2022. Challenging the same, the appellant filed W.P.(MD)No.12742 of 2022. The learned Single Judge vide order dated 22.08.2024 dismissed the writ petition. Aggrieved by the same, this writ appeal has been filed.

3.Rule 11(4) of the Tamil Nadu Pension Rules, 1978 reads as follows:-

“11. Commencement of qualifying services.

(4)[Half of the service rendered under the State Government in non-provincialised service, consolidated pay, honorarium or daily wages basis on or after 1st January 1961 in respect of Government -employees absorbed in regular service before 1st April 2003 shall be counted for retirement benefits along with regular service, subject to the following conditions, namely:-

(i)Service rendered in non-provincialised service, consolidated pay, honorarium or daily wages basis shall be in a job involving whole time employment;

(ii)Service rendered shall be on consolidated pay, honorarium or daily wages basis paid on monthly basis and subsequently absorbed in regular service under the State Government;

(iii)Service rendered in non-provincialised service,



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consolidated pay, honorarium or daily wages basis shall be followed by absorption in regular service before 1st April 2003 without a break.

Provided that this sub-rule is applicable to all employees who rendered service under the State Government in non-provincialised service, consolidated pay, honorarium or daily wages basis on or after 1st January 1961 and absorbed in regular service before 1st April 2003.

Provided further that wherever there was break in service before their absorption in regular service before 1st April 2003, the same shall be specifically condoned by the orders of the Head of Departments, in which the employees were regularly absorbed and such period of break, shall not count for the purpose of pensionary benefits.]”

4. Even though the appellant had served Madurai Corporation only on daily wages basis, still 50% of his service has to be reckoned as per the aforesaid statutory rule. But the onus is on the appellant to prove that he has served Madurai Corporation. The appellant relies on the certificate dated 13.05.1982 issued by the Electrical Engineer of Madurai Corporation. The learned Single Judge noted that even if the said certificate is taken to be genuine, it only reads that the appellant was engaged by Madurai Corporation from 05.09.1979 till 01.03.1982 in



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connection with World Tamil Conference. The learned Single Judge rightly noted that if there was break in service, it cannot be taken into account. In other words, there must have been a seamless absorption. Even though TNEB took over the Electricity Wing of Madurai Corporation in the year 1995, the appellant's service were directed to be counted with effect from 01.01.1993 onwards. These are matters that involve scrutiny of the relevant service records and particulars. The appellant was not able to discharge the onus cast on him. When the competent authority of the department had held against the appellant and the said finding was also confirmed by the learned Single Judge, we are not in a position to interfere in exercise of jurisdiction under Clause XV of Letters Patent. The writ appeal is dismissed. No costs.

(G.R.S. J.) & (K.R.S. J.)
05.08.2025

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