BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 06/11/2025

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THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

WP(MD). No.26729 of 2025

Subramanian N ... Petitioner

Vs

1. The Chief Engineer (National Highways),
Guindy, Chennai - 25.

2. The Divisional Engineer (National Highways),
Tirunelveli - 2.

3. The Commercial Tax Officer,
Commercial Tax Department,
Sankarankoil, Tirunelveli District.

4. The Accounts Officer,
Directorate of Treasuries and Accounts (Pension Section),
3rd Floor, 571, Anna Salai,
Nandanam, Chennai - 35. ... Respondents

PRAYER :-

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order passed by the 1st respondent in Letter No.6269/Niru-2/NH/2023 dated 20.06.2025, quash the same and consequently direct the respondents to count 50 percent of the Temporary Service rendered by the petitioner for the period from 01.10.1975 to 18.11.1983 as Godown Watchman in the 2nd respondent Department based on the entries made in the service records of the petitioner and also the entries made in the Pension Payment Order of the petitioner showing the petitioners entry into service as 07.04.1975 and in terms of G.O.Ms.No.408 Finance (Pension) Department dated 25.08.2009 with consequential Revision of Pensionary Benefits with arrears along with belated payment interest at the rate of 12 percent per annum from the retirement on 28.02.2009.

For Petitioner	: Mr. Govindan S, Advocate.
For Respondents	: Mr.M.Siddharthan for R1, R2 and R4 Additional Government Pleader Mr.R.Sureshkumar for R3 Additional Government Pleader

ORDER

This Writ Petition is filed to issue a Writ of Certiorarified Mandamus, calling for the records connected with the impugned order passed by the 1st respondent in Letter No.6269/Niru-2/NH/2023 dated 20.06.2025, quash the same and consequently direct the respondents to count 50 percent of the Temporary Service rendered by the petitioner for the period from 01.10.1975 to 18.11.1983 as Godown Watchman in the 2nd respondent Department based on the entries made in the service records of the petitioner and also the entries made in the Pension Payment Order of the petitioner showing the petitioners entry into service as 07.04.1975 and in terms of G.O.Ms.No.408 Finance (Pension) Department dated 25.08.2009 with consequential Revision of Pensionary Benefits with arrears along with belated payment interest at the rate of 12 percent per annum from the retirement on 28.02.2009.

2. Learned counsel for the petitioner would submit that the petitioner was appointed as a Godown watchman on temporary basis which was approved and ratified by the Divisional Engineer (National Highways) No.II, Madurai by proceedings dated 02.03.1972. The period that he had rendered as temporary Godown Watchman from 21.02.1972 to 07.04.1975 was to be taken for the purpose of pensionary benefits and the revised pension was also granted. Thereafter, he was posted as a Godown Watchman at Nanguneri Cement Godown where he continued to work from 01.10.1975 from 18.11.1983. Thereafter, he was appointed as Junior Assistant on temporary basis by proceedings of the Assistant

Commissioner, Commercial Taxes Department, Tirunelveli and was subsequently promoted as Assistant, where he retired on 28.02.2009. He had made a representation to count his service from 1972 to 1983 up to the value of 50%. However, the period from 1972 - 1983 was omitted to be considered. Relying upon G.O.Ms.No.408, Finance (Pension) Department dated 25.08.2009, learned counsel for the petitioner would submit that the excluded period can also be counted for up to 50% for pensionary benefits. However, the same had been rejected under the impugned order. Therefore, he approached this Court to count the 50% of the period of service from 01.10.1975 to 18.11.1983, when he worked as a Godown Watchman in the second respondent department, in terms of the G.O.Ms.No.408 and to revise the pensionary benefits payable to the petitioner.

3. Learned Additional Government Pleader appearing for the respondents 1, 2 and 4 would vehemently contend that G.O.Ms.No.408 is not applicable to the facts of the case. Therefore, he prays this Court to dismiss the writ petition.

4. Learned Additional Government Pleader appearing for the third respondent would submit that the service of the petitioner which was ratified earlier, alone was considered and the further service of the petitioner had not been taken into consideration from 1975- 1983, as there has been no ratification on the part of the Government. If that be so, the petitioner is not entitled for counting 50% of the service as claimed by him.

5. I have considered the submissions made by the learned counsel on either side.

6. G.O.Ms.No.408 Finance (Pension) Department dated 25.08.2009, had been issued to count 50% of the service rendered as Non Provincialised Service, Consolidated Pay, Honorarium and daily wages. It is not disputed that the petitioner had put his service between 1975 to 1983 as watchman in the second respondent Godown at Nanguneri Deport. It is also not disputed that the petitioner had been observed in a regular service prior to 01.04.2003.

7. In view of the same, this Court is of the view that G.O.Ms.No. 408 Finance (Pension) Department dated 25.08.2009, is applicable to the case of the petitioner and 50% of the services rendered by the second respondent between 01.10.1975 to 18.11.1983 is liable to be counted for his pensionary services.

8. For the aforesaid reasons, this writ petition stands allowed and the impugned order is set aside and there shall be a direction to the respondents to count 50% of his temporary services with the second respondent from 01.10.1975 to 18.11.1983 and accordingly revise his pension and grant him all monetary benefits that arises out of such pension. However, the petitioner would not be entitled for any interest as claimed by him. No costs.

06.11.2025

NCC : yes / no
Index : yes /no
Internet : yes /no

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To

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K.KUMARESH BABU, J

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