IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 04-06-2026**

CORAM

**THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM**

**AND**

**THE HON'BLE MR.JUSTICE N.SENTHILKUMAR**

**Writ Petition No.6526 of 2024**
**and**
**W.M.P.No.7253 of 2024**

1. Union of India
   represented by the Secretary,
   Ministry of Communications and IT,
   Department of Posts, Dak Bhavan,
   Sansad Marg, New Delhi-110 001.

2. The Chief Postmaster General,
   Tamil Nadu Circle, Anna Salai,
   Chennai-600 002.

3. The General Manager,
   Postal Accounts and Finance,
   Tamil Nadu Circle, No.4, Ethiraj Salai,
   Chennai-600 008.

4. The Director,
   Postal Accounts and Finance,
   Tamil Nadu Circle, Chennai-600 008.

5. The Senior Accounts Officer/Admin
   Postal Accounts and Finance,
   Tamil Nadu Circle, Chennai-600 008.

..Petitioners

Vs

G.Muthukumar

..Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for records pertaining to the order dated 29.03.2023 in O.A.No.178/2017 on the file of the Central Administrative Tribunal Chennai Bench and quash the same.

For Petitioners : Mr.S.Janarthanam,
Senior Panel Counsel

For Respondent : Mr.R.Malaichamy

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**ORDER**

**(Made by S.M.Subramaniam J.)**

Under assail is the order of the Central Administrative Tribunal dated 29.03.2023 in O.A.No.178/2017.

2. Union of India is the writ petitioner. The respondent filed original application seeking a direction to the authorities to count half of the services rendered by him as casual labourer from 01.06.1996 to 24.05.2012 and consequently, grant pensionary and other consequential benefits under the Old Pension Scheme. The Tribunal granted the relief in favour of the respondent only on the ground that the respondent was rendering his services from the year 1996 and his salary was paid from contingency fund. Therefore, 50% of the casual labourer services were directed to be reckoned for the purpose of qualifying services and the benefits were directed to be granted under the Old Pension Scheme.

3. The sole issue to be considered in the present *lis* is that, whether the services of the respondent herein falls under the Old Pension Scheme or under the New Pension Scheme, since the Contributory Pension Scheme

implemented with effect from 01.01.2004. If this issue is answered, then the entitlement of the respondent can be determined.

4. It is not in dispute that the respondent served as casual labourer from 01.06.1996 to 24.05.2012. His services were regularized with effect from 25.05.2012 in the sanctioned post in the time scale of pay. Thus, for all purposes, the respondent became a member of the regular service with effect from 25.05.2012. As on the date of regularization of services of the respondent, Contributory Pension Scheme was in force and therefore, his name was not included in the Old Pension Scheme. Further, it is not in dispute that the department has already opened CPS account in favour of the respondent.

5. Pertinently, the causal services rendered by the respondent prior to the implementation of New Pension Scheme would not fall under the pensionable establishment. A member of the service is entitled to claim pension benefits under the Old Pension Scheme, if he has served in the pensionable establishment prior to 01.01.2004. In the present case, prior to 01.01.2004, the respondent admittedly neither served in the pensionable establishment nor he was falling under the Old Pension Scheme. Only after his permanent absorption in the department in the sanctioned post with effect from 25.05.2012, he became a member of the pensionable establishment and as on 25.05.2012, the New Pension Scheme i.e. Contributory Pension

Scheme was in force. Thus, the respondent is not entitled to claim any pensionary benefits under the Old Pension Scheme. On this issue, the Government of India issued O.M.No.49014/1/2004-Estt. (C), dated 26-4-2004, which reads as follows:

> **"G.I., Dept. of Per. and Trg., O.M.No.49014/1/2004-Estt. (C), dated 26-4-2004**
> Modification of scheme for temporary status to casual labourers. - It is directed to say that the scheme for grant of temporary status and regularization of casual workers in Central Government Offices formulated in pursuance of the judgment, dated 16-2-1990 of the Central Administrative Tribunal Principal Bench in the case of Raj Kamal and others v. Union of India has been reviewed in the light of introduction of New Pension Scheme in respect of persons appointed to the Central Government service on or after 1-1-2004 and it has been decided to modify the scheme as under: -
> (i) As the new pension scheme is based on defined contributions, the length of qualifying service for the purpose of retirement benefits has lost its relevance, no credit of casual service, as specified in Para.5(v), shall be available to the casual labourers on their regularization against Group 'D' posts on or after 1-1-2004.
> (ii) As there is no provision of General Provident Fund in the new pension scheme, it will not serve any useful purpose to continue deductions towards GPF from the existing casual employees, in terms of Para.5(vi) of the scheme for grant of temporary status. It is, therefore, requested that no further deductions towards General Provident Fund shall be effected from the casual labourers with effect from 1-1-2004 onwards and the amount lying in their General Provident Fund accounts, including deductions made after 1-1-2004, shall be paid to them.
>
> 2. The existing guidelines contained in this Department's O.M.No.49014/2/86-Estt.(C), dated 7-6-1988 may continue to be followed in the matter of engagement of casual workers in the Central Government Offices."

6. The above Office Memorandum would clarify that the date of regularization/permanent absorption of the casual labourer would be the criteria to find whether the employee is falling under the Old Pension Scheme or under the New Pension Scheme i.e. CPS. In the present case, the

respondent was permanently absorbed in the sanctioned post on 25.05.2012 and he would fall under the New Pension Scheme i.e. CPS. Therefore, he cannot seek for counting of 50% of temporary services based on the provisions available under the Old Pension Scheme, since the Old Pension Scheme itself is inapplicable in respect of the services rendered by the respondent. This being the legal position, this Court is of the considered view that the Tribunal has committed an error in appreciating the facts in the context of the provisions under the Pension Rules.

Accordingly, the impugned order passed by the Central Administrative Tribunal dated 29.03.2023 in O.A.No.178/2017 is set aside and this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

**(S.M.S.,J.)** **(N.S.,J.)**
**04-06-2026**

Index: Yes
Speaking order
Neutral Citation: Yes

gm

**S.M.SUBRAMANIAM, J.**
**AND**
**N.SENTHILKUMAR, J.**

gm

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