



WEB COPY

WP No. 16463 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28-01-2026

PRONOUNCED ON : 11-02-2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

WP No. 16463 of 2024

and

WMP No.18016 of 2024

1. The Indian Council of Medical Research
Represented by its Director General,
and Secretary to Department of Health Research,
Ansari Nagar, New Delhi - 110 029.

2. The Director
ICMR-National Institute For Research in
Tuberculosis,
No. 1, Mayor Sathyamoorthy Road,
Chetpet, Chennai - 600 031.

..Petitioner(s)

Vs

1. T.Kumar
Lab Attendant-2 (retd.),
No.6 Thiruveedhi Amman Koil Street,
Koyambedu, Chennai 600107.



2. D.Ravichandran

Working as Lab Attendant-2,
ICMR-National Institute For Research in
Tuberculosis,
No. 1, Mayor Sathyamoorthy Road,
Chetpet, Chennai - 600 031.

3. J.V.Mohan Raj

Working as Lab Attendant-2,
ICMR-National Institute For Research in
Tuberculosis,
No. 1, Mayor Sathyamoorthy Road,
Chetpet, Chennai - 600 031.

4. M.Raghunathan

Working as Lab Attendant-2,
ICMR-National Institute For Research in
Tuberculosis,
No. 1, Mayor Sathyamoorthy Road,
Chetpet, Chennai - 600 031.

5. Union of India

Represented by Secretary to Government,
Department of Health Research,
Ministry of Health And Family Welfare,
Nirman Bhawan, New Delhi – 110 001.



6. Union of India

Represented by Secretary to Government,
Ministry of Finance,
North Block, New Delhi 110 001.

7. Central Administrative Tribunal

Chennai Bench,
Rep. by its Registrar,
Madras High Court Compound,
Chennai 600104.

..Respondent(s)

This Writ Petition filed under Article 226 of the Constitution of India, in the nature of ‘Writ of Certiorari’ calling for the records from the 7th respondent relating to the order dated 12.06.2023 in OA/310/00848/2022 and quash the same as illegal, arbitrary, perverse and without jurisdiction.

For Petitioner(s): Mr.K.Srinivasa Murthy,
Central Government Standing Counsel

For Respondent(s): Mr.C. Vigneswaran, for R1 to R4
R5 and R6 – Unserved
R7 – Tribunal



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ORDER

(Order of the Court was made by C.V.Karthikeyan J.)

This Writ Petition has been filed by the respondents in O.A. No. 848 of 2022 on the file of the Central Administrative Tribunal, Chennai, aggrieved by the order dated 12.06.2023 allowing the said Original Application.

2. The said Original Application had been filed by the respondents herein seeking a direction to count the length of services of the applicants from the date of their initial appointment for retirement benefits and also pensionary benefits as per old Pension Scheme instead of New pension Scheme which was granted to them from their dates of reappointment.

3. The respondents herein were initially appointed as drivers in ICMR's Modified District Project at various institutes of ICMR on ad hoc basis in the year 1990s. They were then terminated in the year 2000. They filed Original Applications seeking absorption / regularisation. The Tribunal directed absorption / regularisation. The challenge to that order failed before this Court and before the Supreme Court. Thereafter, to avoid orders in contempt proceedings initiated, the respondents and other similarly placed persons were



absorbed in 2012 as attendants by ICMR at various places. The respondents then represented to consider their earlier service period and to place them under the Old Pension Scheme instead of being treated as fresh appointees. These representations were rejected contending that they had been terminated from their previous projects. Challenging that order, the Original Application had been filed before the Tribunal. The Original Application had been disposed permitting the respondents herein to submit comprehensive fresh representations. The present Writ Petition had been filed aggrieved by that direction.

4. It had been contended by Mr. K. Srinivasa Murthy, learned Central Government Standing Counsel on behalf of the Writ Petitioners that in accordance with the directions of the Tribunal in the earlier round of litigation, the respondents herein were absorbed in various wings of ICMR in 2012 and brought into regular service. They were declared to be on probation for two years. It was also specifically provided in their appointment orders that they would be governed by the New Pension Scheme. This order was again challenged. It was directed that the clause directing them to be placed under probation be removed, however the clause bringing them under the New Pension Scheme was to interfered with. It was therefore contended by the learned Counsel that the respondents cannot raise that plea again and seek to be brought under the Old pension Scheme.



5. Mr. C. Vigneswaran, learned Counsel for the contesting respondents however disputed these submissions. The learned Counsel pointed out that the fact that the respondents were earlier in service has not been disputed. They were terminated. They were thereafter directed to be absorbed by ICMR in available vacancies. The Tribunal had directed a scheme to be framed. However, such scheme was never framed. They were absorbed in the year 2012, but placed under probation for two years and brought under the New Pension Scheme. The respondents challenged that order. Fresh orders were issued by ICMR, removing the clause relating to probation, but retaining the clause bringing them under the New Pension Scheme. The learned Counsel argued that the past service should be taken into consideration. The Writ Petitioners had an obligation to examine the representations given in the light of DOPT OM No.57/05/2021-P&PW(B) dated 03.03.2023 and the order of the Delhi High Court dated 21.11.2022 in WP(C) No. 7619 of 2021.

6. We have carefully considered the arguments advanced and perused the material records.

7. It is to be mentioned that the Writ Petition before the Delhi High Court challenged an Office Memorandum whereby those candidates who were



recruited against vacancies arising on or before 31.12.2003 and the selection results were declared on or before 01.04.2024 were brought under the Old Pension Scheme and the other employees, including the Writ petitioners therein, who were appointed after the cut-off date were brought under the National Pension Scheme. The Writ Petitioners were aggrieved that they had been denied the benefit of the Old Pension Scheme. The Delhi High Court had actually dismissed the Writ Petition and upheld the Office Memorandum.

8. It is also to be mentioned that DOPT OM No. 57/05/2021-P&PW(B) dated 03.03.2023 would be applicable to those Central Government employees who were recruited against the posts/vacancies advertised/notified for recruitment, on or before 22.12.2003.

9. In the instant case, the respondents were employed on contractual basis in various projects of ICMR as drivers. On completion of the projects, their contract ceased. The writ petitioners had however been directed to absorb them whenever vacancies arose. They have been thus absorbed in the year 2012 against vacancies which arose. In their appointment order, they were directed to kept under probation for a period of two years and it was specifically covenanted that they would be governed under the New Pension Scheme. This order was challenged by them. The clause relating to keeping them under probation for two years was struck down. However, neither the Tribunal nor this Court in the earlier round of litigation interfered with the stipulation that they would be governed by the New Pension Scheme. The Judgment of the



Delhi High Court does not come to the rescue of the respondents herein. The Office Memorandum would not be applicable to the respondents.

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10. The learned Counsel for the respondents placed reliance on the observations of a learned Single Judge of the Delhi High Court in ***WP (C) No. 3806 of 2022 (Dr. Anita Agarwal vs University of Delhi & others)***, wherein the entire service of the petitioner from the date of initial appointment on temporary service till date of substantive appointment was directed to be counted as qualifying service for the purpose of pension and she was deemed to be in service prior to 01.01.2004 and governed by the Old Pension Scheme.

11. The facts in that case are distinguishable. The writ petitioner therein was in continuous employment as Lecturer from 11.10.1999 uninterruptedly without any extension. She was then granted promotion as Lecturer (Senior Scale) with effect from 13.01.2006, counting her past service. She was then promoted as Reader (Stage-III) with effect from 17.03.2006 and then to the post of Associate Professor (Stage-IV) with effect from 17.03.2009. In those circumstances, it was held that the order treating her as a new entrant from 13.01.2006 stood vitiated and liable to be struck down.

12. In the instant case, the respondents were disengaged from service on completion of the projects of ICMR and were thereafter absorbed in



vacancies which subsequently arose. The Court had also not struck down the clause bringing them under the New Pension Scheme. The Court, in the earlier round of litigation had only frowned upon the clause directing them to be kept under probation for a period of two years on fresh appointment.

13. The learned Counsel for the respondents had placed reliance on a judgment of this Court **2014 (2) CTC 777 (Union of India vs K. Puuniyakoti and others)**. Again the facts are distinguishable. The respondents therein were in continuous employment. Persons appointed similar to them were granted the benefit of being brought under the Old Pension Scheme. It was therefore held that the respondents cannot be discriminated against and should also be brought under the Old Pension Scheme. Here, as repeatedly pointed out there was a break in service and the respondents were appointed under vacancies which had arisen. They were not reappointed.

14. For all the reasons stated above, we are constrained to interfere with the order of the Tribunal and we set aside the directions therein. The Writ Petition stands allowed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

(C.V.K.,J.) (K.B.,J.)
11-02-2026

smv

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No



To

1.The Secretary

Union of India

Department of Health Research,

Ministry of Health and Family Welfare, Nirman Bhawan,

New Delhi – 110 001.

2.The Secretary

Union of India

Ministry of Finance,

North Block, New Delhi - 110 001.

3.The Registrar,

Central Administrative Tribunal

Chennai Bench,

Madras High Court Compound,

Chennai - 600104.



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**C.V.KARTHIKEYAN, J.
AND
K.KUMARESH BABU, J.**

smv

**Pre-deliver order made in
WP No. 16463 of 2024**

11-02-2026