



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WA No. 1569 of 2026

AND

WA NO. 2142 OF 2024,WP NO. 39408 OF 2015,WA NO. 1351 OF 2024,WA NO. 2157 OF 2024,WA NO. 2692 OF 2024,WA NO. 2217 OF 2024,WA NO. 2861 OF 2024,WA NO. 1602 OF 2026,WA NO. 2762 OF 2025,WA NO. 2377 OF 2023,WA NO. 2616 OF 2023,WA NO. 2615 OF 2023,WA NO. 2617 OF 2023,WA NO. 3074 OF 2025,WA NO. 2902 OF 2025,WA NO. 2908 OF 2025,WA NO. 2760 OF 2025,WA NO. 2904 OF 2025,WA NO. 3171 OF 2024,WA NO. 585 OF 2024

WA No. 1569 of 2026

1. The State of Tamil Nadu
Rep. by its Principal Secretary to Government,
Rural Development and Panchayat Raj
Department,
Secretariat,
Fort St. George,
Chennai 600 009.
2. The Director of Rural Development
Department
Panagal Maligai,
Saidapet, Chennai 600015.
3. The District Collector
Kallakurichi,
Kallakurichi Dt 606 202.

..Appellant(s)

Vs

A Chidambaram

..Respondent(s)

Writ Appeal filed under Clause 15 of the Letters Patent issuing writ of certiorarified mandamus to set aside the order dated 18.01.2024 made in



W.P.No.6510 of 2023.

WEB COPY

WA Nos. 585, 2142, 2861, 3171, 1351 of 2024, 2908, 1569 of 2026, 2904, 3074, 2902, 2760 of 2025,

For Appellant(s) : Dr.R.Gouri, Government Counsel

For Respondent(s) : Mr. S.Jaganathan

WA No.1602 of 2026

For Appellant(s) : Dr.R.Gouri, Government Counsel

For Respondent(s) : Mr.K.S.Viswanathan,
Senior Counsel for Mrs.T.Hemalatha

WA Nos. 2692, 2217 of 2024

For Appellant(s) : Dr.R.Gouri, Government Counsel

For Respondent(s) : Mr.P.Wesley Isaac

WA Nos. 2762 of 2025

For Appellant(s) : Dr.R.Gouri, Government Counsel

For Respondent(s) : No appearance

WA Nos. 2157 of 2024

For Appellant(s) : Dr.R.Gouri, Government Counsel

For Respondent(s) : Mr.P.Mohanraj for R1
Mr.S.Mahesh for Mr.V.Vijayashankar,
Standing Counsel for R2

WA Nos. 2377 of 2023

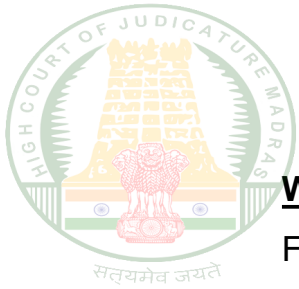
For Appellant(s) : Mr.S.Mahesh for Mr.V.Vijayashankar,
Standing Counsel

For Respondent(s) : Dr.R.Gouri, Government Counsel for R2-4

WA Nos. 2615, 2616, 2617 of 2023

For Appellant(s) : Mr.S.Mahesh for Mr.V.Vijayashankar,
Standing Counsel

For Respondent(s) : Mr.K.S.Viswanathan,
Senior Counsel for Mrs.T.Hemalatha for R1



Dr.R.Gouri, Government Counsel for R2-4

WP No.39408 of 2015

For Petitioner(s) : No appearance

For Respondent(s) : Dr.R.Gouri, Government Counsel

WEB COPY

COMMON JUDGMENT**(Judgment of the Court was delivered by S.M.Subramaniam J.)**

S.No	Table Of Contents	Page No.
I	Facts in Brief	2
II	Rule Position	5
III	Contentions raised on behalf of the appellants	9
IV	Contentions raised on behalf of the respondents	10
V	Legal Position	11
VI	Discussions	16
VII	Conclusion	17

The present batch of intra-court appeals have been instituted under Clause 15 of the Letters Patent by the State of Tamil Nadu and by the Accountant General of Tamil Nadu, challenging the common order passed by the Writ Court extending the benefit of counting 50% of the service rendered by the employees as Part-Time Panchayat Clerks.

I. FACTS IN BRIEF:

2. Respondents/writ petitioners were initially appointed as Part-Time Panchayat Clerks in various Village Panchayats. They worked as part-time employees. Thereafter, the Government took a policy decision to regularise their services against the sanctioned posts of Junior Assistants.



WEB COPY

Consequently, these Part-Time Panchayat Clerks were absorbed as regular employees in the sanctioned posts, in the time scale of pay. Their services were regularised from the date of their regular absorption in the sanctioned post of Junior Assistant.

3. These Part time Panchayat Clerks brought under the regular establishment in the post of Junior Assistants served and retired from service. They set out a claim that their services rendered as Part-time Panchayat Clerk to be reckoned as qualifying services to an extent of 50 %, as contemplated under G.O.Ms.No.39, Panchayat Development and Panchayat (E5) Department, dated 13.06.2011.

4. Subsequently, the Government issued G.O.Ms. No. 77, Rural Development and Panchayat (PA 4) Department, dated 12.07.2013, and G.O.Ms. No. 99, Rural Development and Panchayat Raj (E5) Department, dated 27.08.2022. In view of the said Government Orders, these Part-Time Panchayat Clerks started claiming the benefit of counting 50% of their part-time services as qualifying service for calculation of pension under the Tamil Nadu Pension Rules, 1978.

5. Several orders have been passed by the Writ Courts as well as by Division Benches, granting and declining the said benefit, thereby causing inconsistency in judicial pronouncements. Judgments both for and against the



claim have been placed before this Court. But in all those orders, the scope of Tamil Nadu Pension Rules, 1978 and the principles settled by the Full Benches are not considered.

6. Under these circumstances, it is just and necessary to examine the rightfulness of the claim made by the Part- Time Panchayat Clerks in the context of the Rules, and with reference to the Full Bench.

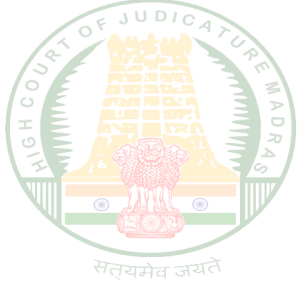
II. RULE POSITION:

7. It is not in dispute that the benefit of counting 50% of the service is claimed by these Part-Time Panchayat Clerks under the provisions of the Tamil Nadu Pension Rules, 1978 (Old Pension Rules).

8. Chapter III of the Tamil Nadu Pension Rules, 1978 (hereinafter referred to as 'Rules, 1978') provides **Qualifying Service**. Rule 11 denotes **Commencement of qualifying services**. Sub-Rule (2) to Rule 11 reads as under:

“(2). Half of the service paid from contingencies shall be allowed to count towards qualifying service for pension along with regular service subject to the following conditions:-

(i) Service paid from contingencies shall be in a job involving whole time employment and not part-time for a portion of the day.



WEB COPY

(ii) Service paid from contingencies shall be in a type of work or job for which regular posts could have been sanctioned, for example Chowkidar.

(iii) Service shall be for which the payment is made out on monthly or daily rates computed and paid on a monthly basis and which, though not analogous to the regular scale of pay, shall bear some relation in the matter of pay to those being paid for similar jobs being performed by staff in regular establishments.

(iv) Service paid from contingencies shall be continuous and followed by absorption in regular employment without a break.

(v) Subject to the above conditions being fulfilled, the weightage for past service paid from contingencies shall be limited to the period after the 1st January 1961 for which authentic records of service may be available.

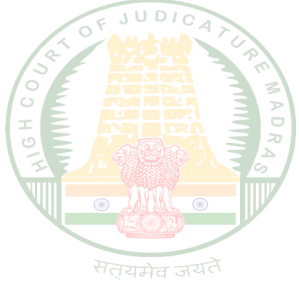
(vi) Pension or revised pension admissible as the case shall be paid from the 23rd June, 1988.”

9. An amendment was issued in G.O.Ms.No.41, Finance Pension Department, dated 09.02.2010 and Sub-Rule (4) to Rule 11 was inserted, which reads as under,

“AMENDMENT

In the said Rules, in rule 11, after sub-rule (3), the following sub-rule shall be added namely:-

(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



WEB COPY

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

10. The above Rules in an unambiguous terms reiterates that 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 condition that service rendered in non-provincialised service, consolidated pay, honorarium or daily wages basis shall be in a job involving whole time employment.

11. Sub-Rule (2(i)) to Rule 11 reiterates that Service paid from contingencies shall be in a job involving whole time employment and not part-



time for a portion of the day.

WEB COPY

12. Sub-Rule (2) to Rule 11, which was existing prior to insertion of Sub-Rule (4) to Rule 11 itself would indicate that half of the service paid from contingencies shall be allowed to count towards qualifying service for pension only in respect of the job involving whole time employment and not part-time employment. By inserting sub-rule (4), the non-provincialised service, consolidated pay, honorarium have also been included for the benefit of counting of 50% of services to the Temporary employees. Thus, the Rule 11 regarding commencement of qualifying services and sub-rule 2(i) amplifies that benefit of counting of 50% of the services shall be extended to the temporary employees, who shall be in a job involving whole time employment and not part-time employment

13. In the context of the above Rule, the present cases are to be examined. It is not in dispute that all the respondents in the batch of appeals/writ petitions were appointed as Part-Time Panchayat Clerks and continued in service in that capacity, and their services were absorbed in the sanctioned posts in the time scale of pay. Further, it is not in dispute that the qualifying service of these employees has already been reckoned from the date of their regularization in the cadre of Junior Assistant, and all of them are receiving pension.



III. CONTENTION RAISED ON BEHALF OF THE APPELLANTS:

14. Dr. R. Gouri, learned Government Counsel, and the learned Standing Counsel appearing on behalf of the Principal Accountant General would submit that, as per Rule 11(2) and (4) of the Tamil Nadu Pension Rules, 1978, the benefit of counting 50% of service cannot be extended to part-time employees. The Government Orders relied on by the respondents before the Writ Court were passed in implementation of the orders of the High Court and are contrary to Rule 11(4) of the Pension Rules. Perpetual irregularity in extending the benefit of counting 50% of service to these Part-Time Panchayat Clerks has resulted in huge financial loss to the exchequer. Therefore, the said Government Orders are of no avail to the respondents, since they were not issued based on the policy decision of the Government, but only in compliance with the orders of the High Court.

15. Learned Government Counsel would rely on the Full Bench judgment in the case of ***Government of Tamil Nadu Vs. R.Kaliyamoorthy***¹ and reiterated that counting of 50% of temporary services are extended only in respect of the employees served in a whole time job and not in a part time job.

16. She would rely on the judgment of the Full Bench of this Court in the case of ***Government of Tamil Nadu Vs. P.L.S Palaniappan***², dated 07.04.2026 in WA.No.3121 of 2019 and reiterated that Article 14 of the

¹ (2019) 6 CTC 705

² 2026 MHC 2255



Constitution of India cannot be invoked for perpetuating illegality. A wrong order passed in one case cannot be made the basis for compelling a public authority to pass similar orders in any other case.

17. Relying on the judgments of Full Bench, the present appeals preferred by the State are to be considered.

IV. CONTENTIONS RAISED ON BEHALF OF THE RESPONDENTS:

18. Mr.K.S.Viswanathan, learned Senior Counsel, and the respective learned counsels for the respondents would contend that the rights accrued to these Part-Time Panchayat Clerks cannot be taken away. The right accrued to them is not under Rule 11(4) of the Rules, 1978, but pursuant to the Government Order issued in G.O.Ms. No. 39, dated 13.06.2011. Government consciously took a decision to extend the benefit of counting 50% of service of these Part-Time Panchayat Clerks as qualifying service in G.O.Ms.No.39, dated 13.06.2011. Therefore, they cannot now turn around and claim that, under Rule 11(4), the respondents are not eligible to secure the benefit of counting 50% of their Part-Time service.

19. Learned Senior Counsel solicited the attention of this Court with reference to several Government orders passed, as well as the orders passed by the Single Judges and Division Benches of this Court. In those cases, the relief was granted for counting of 50 % of the Part-Time services for reckoning



qualifying services. Therefore, the said benefit is to be extended in respect of the respondents in the present batch of appeals. He relied on the judgment of the Division Bench, which followed the earlier orders and would show that the benefit was extended.

V. LEGAL POSITION:

20. Rules extracted under the “Rule Position” caption above would emphatically reiterate that 50% of the temporary services shall be allowed to count towards qualified services for pension along with regular services, only if the job involves whole time employment and not part time. Sub-rule (4) to Rule 11 reiterate that counting of 50% of services to be extended, only if the job involves whole time employment. Therefore, legislative intention is unambiguous that a temporary employee served in a whole time job alone is entitled for counting 50% of the temporary services along with regular services for pensionary benefits.

21. Regarding the judgments of the learned Single Judges and Division Benches, it is relevant to rely on the two Full Bench judgments which dealt with the issue of counting 50% of service. In the case of **Kaliyamoorthy** cited supra, the Full Bench reiterates that the benefit of counting 50% of service is to be extended for temporary service strictly in accordance with Rule 11(4) of the Rules, 1978. Therefore, emphasis has been placed on the Rule position by the Full Bench of this Court in the **Kaliyamoorthy** case cited supra.



WEB COPY

22. Pertinently, Rule 11(2) and 11(4) remain unchallenged. Therefore, any executive instructions issued contrary to the Rules cannot be held as valid. The pension for these retired employees are being paid under the provisions of the Rules, 1978. Thus, the Rules would apply *stricto sensu*, and any executive order passed contrary to the Rules cannot be followed as a precedent.

23. The Full Bench of this Court in the case of ***P.L.S. Palaniappan*** cited *supra*, dealt with issues wherein the judgment of the Full Bench in the case of ***State represented by Secretary, Education Department, Chennai Vs. S.Rajaram and Others***, in W.A.(MD).No.201 of 2021, dated 05.03.2021, is relied on. The relevant portion is extracted hereunder:

“ ...

19.It is well settled that Article 14 of the Constitution of India cannot be invoked for perpetuating illegality. A wrong order passed in one case cannot be made the basis for compelling a public authority to pass similar order in any other case. Even if the State implements an erroneous order passed by the Court, it cannot be precluded from challenging a similar order passed in another case, simply because appeal was not preferred in the earlier case (Paragraph No.17 in State of Madhya Pradesh Vs. Ramesh Chandra Bajpai, reported in (2009) 13 SCC 635).”



24. Pertinently, yet another Full Bench in the case of **A.Sundaram Vs. The State of Tamil Nadu and Others**³ dated 07.04.2026, considered the very same issues, and the reference before the Full Bench are as under:-

“i) Whether it is permissible for the High Court in exercise of the powers under Article 226 of the Constitution to have declared any law as unconstitutional in the absence of any challenge in this regard?

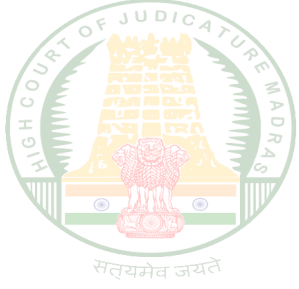
(ii) If so, whether the restriction to half of the services rendered under consolidated pay in Rule 11(4) of the Pension Rules, 1978, is violative of Article 14 of the Constitution of India and the entire period of such service must be taken into account for the calculation of pension for the concerned person.?”

25. The Full Bench in **A.Sundaram** case considered the issues regarding the orders of the learned Single Judges and the Division Bench passed earlier and following observations are made:

“..

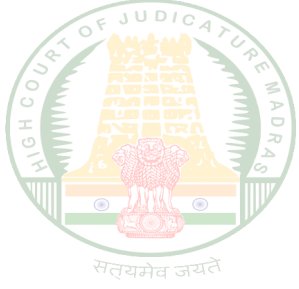
10. There have been instances where in certain individual cases the Courts have widened the scheme to grant certain more benefits by counting the 100% of temporary service along with regular service thereby treating the temporary services as equivalent to regular service diluting the distinction drawn under Rule 11 thereby over inflating the scope of the provision and the Government also has

³ 2026 MHC 2249



WEB COPY

implemented such orders by issuance of G.Os. However, this Court clarifies that such orders created an inconsistency in the application of Rule 11 thereby leading to a scenario of constitution of this Full Bench, whereby the second question put forth is whether such cases will infringe Article 14 of the Constitution. Since few Government servants got more than the allowed benefits through court order, there arises this question as to whether such Court modified pension schemes on individual cases should be extended to all. This Court is of the considered view that through certain individual orders have gone beyond the scope of Rule 11 of the TamilNadu Pension Rules and granted extensive benefits in terms of pension, such order cannot be taken as a precedent in all subsequent cases. Rule 11 shall be strictly applied henceforth to maintain the consistency and uniformity Over inflating or deflating Rule 11(4) would cause inconsistencies among the equals thereby violating Article 14 of the Constitution of India. Hence, the onus is on the constitutional courts to exercise judicial restraint while applying Rule 11(4) and not over inflating the provision. More so, in the absence of specific challenge to the provision, the Rule cannot be shaped on a case to case basis. The language of Rule 11(4) is crystal clear and has been extensively dealt with by another Full Bench of this Court in State of Tamilnadu represented by Secretary to Government, Public Works Department, Secretariat, Chennai-600 009 and others vs. R.Kaliyamoorthy reported in (2019) 6



WEB COPY

CTC 7051 wherein paragraph 38(iii) of the Order it is held that, “In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honourarium or daily wages basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.”

26. Pension is the deferred portion of the wages for the services rendered by a government employee. Therefore, pension, though given the status of a right under the constitution still exists within the contours of the scheme framed by the Government under relevant Rules i.e, Rules, 1978. Therefore, though it is a right, it still operates within the framework as designed by the Government. The framework of Rule 11 of the Pension Rules is more of a welfare provision, as it stipulates counting 50% of temporary service along with the actual period of regular service of a Government employee. When the Government has given an additional benefit over and above the counting of regular service, this cannot be used as a ladder to claim counting of the full period of service rendered by Government servants on a temporary basis. In respect of counting 50% of temporary service, the Rule in unambiguous terms reiterates that the benefit is to be extended to employees employed in a whole-time job and not in a part-time job.



VI. DISCUSSIONS:

27. In the present batch of appeals, the grounds for relief are based on the Government Orders implementing Court orders, and certainly not on the foothold of the Rules/law in place. Consequently, such individual orders have been followed as precedent in similarly placed consequential cases, creating a spinning wheel of precedent to choose from, thereby causing inconsistency and diluting the actual Rules/law in force.

28. The question arises: when certain orders relied on are running counter to the Pension Rules in force, and have been passed merely by relying on earlier orders as well as Government Orders implementing those court orders, can such orders be followed in perpetuity?

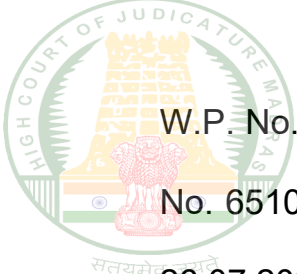
29. In this regard, reliance has been placed on the Full Bench judgment in the case of ***P.L.S. Palaniappan*** cited supra. It is considered that Article 14 of the Constitution of India cannot be invoked for perpetuating illegality. A wrong order passed in one case cannot be made the basis for compelling a public authority to pass a similar order in any other case. Even if the State implements an erroneous order passed by the Court, it cannot be precluded from challenging a similar order passed in another case, simply because an appeal was not preferred in the earlier case.

**VII. CONCLUSION:**

30. Relying on the legal principle considered as above, this Court could arrive at the irresistible conclusion that those Government Orders and the judgments of the Single Judges and the Division Bench, running counter to the ratio laid down by the Full Bench judgments cited supra, cannot be a ground to claim the relief of counting of 50% of service in respect of part-time service rendered. The said benefit is to be granted strictly in accordance with the Pension Rules.

31. Therefore, all the orders of the learned Single Judges and Division Bench judgments, running counter to Rule 11(2) and 11(4) of the Rules, 1978 and contrary to the judgments of the Full Bench of this Court, have denuded to lose its status as precedent and cannot be followed for granting the relief of counting of 50% of service rendered by Part-Time Panchayat Clerks, or employees served in part-time employment.

32. In the view of the above position, the impugned orders dated 30.01.2023 made in W.P. No. 2103 of 2023, dated 28.06.2023 made in W.P. No. 19458 of 2022 and W.P. No. 30197 of 2022, dated 10.07.2023 made in W.P. No. 4033 of 2016, dated 31.07.2023 made in W.P. No. 894 of 2023, W.P. No. 891 of 2023 and W.P. No. 889 of 2023, dated 10.08.2023 made in W.P. No. 17562 of 2018 and W.P. No. 17563 of 2018, dated 17.10.2023 made in W.P. No. 5593 of 2020, dated 18.01.2024 made in W.P. No. 6499 of 2023,



WEB COPY

W.P. No. 6483 of 2023, W.P. No. 6509 of 2023, W.P. No. 6470 of 2023, W.P. No. 6510 of 2023, W.P. No. 6502 of 2023 and W.P. No. 6503 of 2023, dated 26.07.2024 made in W.P. No. 21025 of 2024 and W.P. No. 21029 of 2024 are set aside. Accordingly, the Writ appeals are allowed. Consequently, the connected miscellaneous petitions, if any, are closed. No costs.

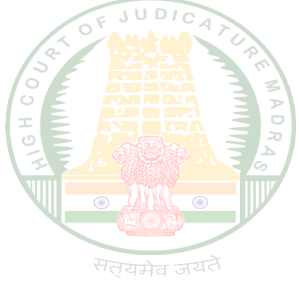
33. In view of the order passed in the batch of aforementioned writ appeals, the W.P.No.39408 of 2015 is dismissed. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

(S.M.S.,J.) (N.S.,J.)
23-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

GD

Note: Registry is directed to type the remaining cause titles.



WEB COPY



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

GD

WA No. 1569 of 2026

AND

**WA NO. 2142 OF 2024, WP NO. 39408 OF 2015, WA NO. 1351 OF 2024, WA
NO. 2157 OF 2024, WA NO. 2692 OF 2024,, WA NO. 2217 OF 2024, WA NO.
2861 OF 2024, WA NO. 1602 OF 2026, WA NO. 2762 OF 2025, WA NO. 2377
OF 2023,, WA NO. 2616 OF 2023, WA NO. 2615 OF 2023, WA NO. 2617 OF
2023, WA NO. 3074 OF 2025, WA NO. 2902 OF 2025, WA NO. 2908 OF
2025, WA NO. 2760 OF 2025, WA NO. 2904 OF 2025, WA NO. 3171 OF
2024, WA NO. 585 OF 2024**

23-06-2026