



W.P.No.9568 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 08.06.2026

Pronounced on : 12.06.2026

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.No.9568 of 2019

Tamil Nadu Government Nurses Association
Represented by its Secretary K.Valarmathy
Having its office at
Government Raja Mirasudhar Hospital,
Thanjavur – 613001.

... Petitioner

vs

1.The Accountant General, Tamil Nadu
office of the Accountant General, Tamilnadu,
261, Anna Salai,
Chennai – 600 018.

2.The State of Tamil Nadu
Rep by its Secretary
Department of Finance (Pension)
Fort St.George, Chennai – 600 009.

3.The Secretary
Ministry of Health and Family Welfare
The State of Tamil Nadu
Fort St.George,
Chennai – 600 009.

4.The Director of Medical Education

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Directorate of Medical Education
162, Poonamallee High Road,
Kilpauk, Chennai – 600 010.

5.The Additional Director of Medical Education
Directorate of Medical Education
162, Poonamallee High Road,
Kilpauk, Chennai – 600 010.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to place the list of members annexed to this affidavit under the Old Pension Scheme based on their initial date of appointment as staff nurse on contract basis in the Government hospital and pass such other order as this Court may deem fit and proper on the facts and circumstances of the case.

For Petitioner : Mr.S.S.Rajesh
for Mr.R.C.Paul Kanagaraj

For Respondents : M/s.Hema Murali Krishnan, SSC for R1
M/s.Y.Kavitha, Government Advocate
for R2 to R5.

ORDER

Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the first respondent and the learned Government Advocate for respondents 2 to 5 and perused the records.



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2. The petitioner which is an Association of Tamil Nadu Government

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Nurses by the present writ petition is seeking for issuance of writ of mandamus to the respondents to place its members as per list of members annexed to the affidavit under the old pension scheme, based on their initial date of appointment as a staff nurse on contract basis with the respondents.

3. Briefly stated the case of the petitioner's association is that the members whose cause is being espoused by it were appointed as staff nurses in the month of September 2001, pursuant to the proceedings issued by the Additional Director and Director of Medical and Rural Health Services, Chennai; that though their services were regularised subsequently (i.e.) after 01.04.2003, after introduction of New Pension Scheme, since, the members were appointed in the year 2001 and absorbed into regular service subsequently on the basis of such appointment, they would be eligible to be considered as covered under Old Pension Scheme, by counting the services rendered by them, since their initial appointment.

4. Counter affidavit on behalf of the respondents 2 to 5 is filed.

5. The respondents contended that the members of the petitioner's



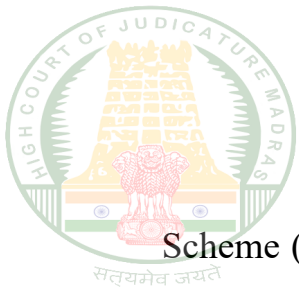
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association were appointed initially only on contract basis for a period of two years

on a fixed remuneration of Rs.2,500/- per month and on completion of contract period they were to be absorbed as and when regular vacancies arise at a latest stage.

6. On behalf of the respondents, it is also contended that two year contract period of the members of the petitioner's association involved in the present writ petition had ended much after 01.04.2003; that their appointment on contract basis was not against any existing vacancies as is clear from the proceedings dated 25.09.2001, under which they were appointed; that the members of the petitioner's association cannot seek for counting services rendered by them on contract basis, for them to claim as eligible for being covered under the Old Pension Scheme.

7. On behalf of the respondents, it is also contended that it is only during the year 2004, the members of the petitioner's association were brought into regular time scale of pay, well beyond the cut off date of 01.04.2003, as such the members of the petitioner's association are eligible to be covered under the New Pension



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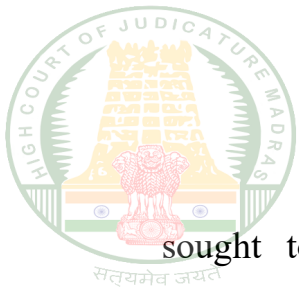
Scheme (i.e) Contributory Pension Scheme and not for pension under Tamil Nadu

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8. On behalf of the respondents, it is also contended that a Full Bench of this Court in the case of ***Government of Tamil Nadu rep by Secretary to Government, Public Works Department, Secretariat, Chennai – 600 009 and others V. R.Kaliyamoorthy*** reported in ***2019 (6) CTC 705*** had considered a similar issue and held that the petitioners in the writ petition therein are not entitled for counting their past services, prior to regularisation, for being covered under the Tamil Nadu Pension Rules 1978.

9. I have taken note of the respective contentions urged.

10. At the outset, it is to be noted that the present writ petition has been filed in the year 2019, while the service of the members of the petitioner's association were regularised by way of absorption in the year 2004-2005, after being appointed on contract basis for a period of two years, pursuant to proceedings dated 25.09.2001. Further, the services of the members of the petitioner's association whose services were availed on contract basis earlier, are

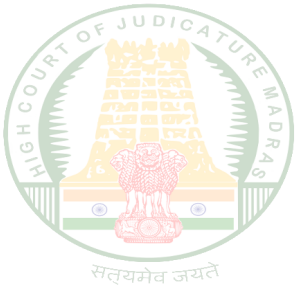


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sought to be regularised by the respondents by issuing proceedings dated 30.04.2004, which is admittedly after introduction of National Pension Scheme (i.e.) Contributory Pension Scheme put in place by the respondents/State under G.O.No.259 dated 06.08.2003.

11. The members of the petitioner's association who's services were regularised, pursuant to proceedings dated 30.04.2004 had become members of the Contributory Pension Scheme without any demur or protest and continued to contribute to the same, being fully aware that they are not being covered under Old Pension Scheme.

12. Thus, the members of the petitioner's association had accepted that their regularisation in 2004 after 30.04.2004 as a new appointment and thus, they are born into service in or after April 2004. Once, an employee is born into service after 01.04.2003, they are to be covered only by the National Pension Scheme (i.e.) Contributory Pension Scheme as implemented by the State under GO.No.259 dated 06.08.2003.



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13. That being so, the present writ petition as filed by the petitioner on behalf of its members in 2019, can only be considered as an after thought and is thus, hit by doctrine of delay and laches, notwithstanding the fact that their initial appointment being only on contract basis and consolidated pay, which cannot be considered as eligible for being counted for placing them under Old Pension Scheme.

14. Further, it is also to be noted that the proceedings under which the members of the petitioner's association were appointed on contract basis itself makes it clear that they were to be absorbed in future as and when vacancy arises, which would go to show that their appointment is not against existing vacancy for them to claim having been appointed their against, for the said period to be treated as in service, in order to claim of having to be covered under Old Pension Scheme.

15. The Full Bench of this Court in the decision rendered in the case of **Kaliyamoorthy** (*supra*) had considered the aforesaid issue and observed as under :-

38. For instance if a government employee/servant was



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appointed and absorbed between the cut off dates i.e. 01.01.1961 and 01.04.2003, then he/she will be entitled to include half of the service rendered under the State Government in (i) non-provincialised services; (ii) Consolidated pay; (iii) honorarium; or (iv) daily wage basis into his/her services for determination of qualifying service.

16. Further the members of the petitioner's association were not appointed prior to 01.04.2003 to a cadre post on temporary basis under Rule 10(a) (i) of Tamil Nadu State and the Subordinate Service Rules for them to claim as eligible to the benefit of being covered under the Old Pension Scheme, otherwise also.

17. Since, the appointment of the members of the petitioner's association was purely on contract basis for a period of two years on fixed monthly remuneration, this Court is of the view that the said period of service on contract basis cannot be considered as a temporary appointment for the purpose of being covered under the Old Pension Scheme.

18. Though, the learned counsel for the petitioner had placed before this Court G.O.No.3 dated 09.02.2026 claiming that the State had extended the benefit



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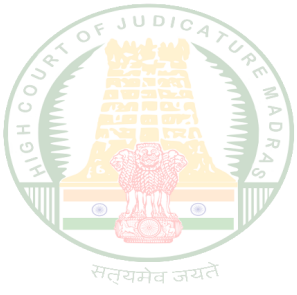
of Old Pension Scheme to the similarly placed employees of the State Government,

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firstly, it is to be noted that extending any benefit to its employees by the State is policy decision and no writ of mandamus can be issued by the Court.

19. Further, as rightly pointed out by the learned Government Advocate that the aforesaid G.O. has been issued in respect of employees who are initially taken on daily wages prior to 1996, continued in service on contract basis for long period thereafter, and regularised later, the Government choose to extend the benefit of pension by counting 50% of their past services. However, that is not so in the facts of the present case of the petitioner. Thus, the reliance on the aforesaid GO would not advance the case of the petitioner's association.

20. Further, the Division Bench of this Court in WA.(MD).No.388 of 2022 etc., batch, dealing with the same subject issue relating to appointment as staff nurse on contract basis, had set aside the order of the learned Single Judge granting the relief and allowed the appeals filed by the State. The aforementioned decision of the Full Bench as well as Division Bench of this Court, binds this Court.



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21. In view of the above and considered from any angle, the present writ

petition as filed is devoid of merits, apart from suffering from delay and latches.

22. Accordingly, the writ petition fails and is dismissed. No costs.

12.06.2026

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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T. VINOD KUMAR, J.

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Pre-delivery order made in
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