

TNVL020000352026



**BEFORE THE PRINCIPAL LABOUR COURT, VELLORE,
VELLORE DISTRICT.**

**PRESENT : Tmt. A.Packia Jothi, M.L.,
Presiding Officer.**

Monday, the 03rd day of August, 2026

**I.D. No.5 of 2026
(CNR No.TNVL02-000035-2026)**

INTUC North Arcot District General Labour Federation,
Regn.No.285/NAT,1980,
No.27, Padmanaban Complex,
Dhinakaran Bus Stop,
Arni Road,
Vellore – 632 001.

. . .

Petitioner

Versus

The Director,
SIH-R & LC.,
Karigiri – 632 106.
Vellore District.

. . .

Respondent

This above reference came up for final hearing on 29.07.2026 in the presence of Thiru.A.Suresh Babu, the Authorized Representative for the Petitioner and M/s. M.R.Ramanan and Associates for the Respondent, upon hearing the arguments of both side and upon perusing the entire material case records and having stood over for consideration till this date, this Court delivered the following:-



AWARD

The Government reference was made under Section 10(1)(c) and 10(1)(d) of Industrial Disputes Act 1947 as given in G.O. (D).No.220, Labour Welfare and Skill Development (B2) Department, dated 13.03.2026.

The Union raised the Industrial Dispute before the Assistant Commissioner of Labour. In the conciliation proceedings no settlement was arrived, hence the Assistant Commissioner of Labour, Vellore recorded a failure report and sent the report to the Government. In continuation of the same, The Labour Welfare and Skill Development (B2) Department by its G.O.(D). No.220, dated 13.03.2026, referred the issue for adjudication by this court.

The Government by the above order has requested the court to decide the validity of the demand of the Union. The demand of the petitioner Union was that one Mr.K.Vasudevan being an employee of the respondent concern completed 22 years of service on 01.01.2007 and whether the claim of pension from 01.01.2007 under Superannuation Financial Assistant Scheme is valid or not?



On receipt of the Government Order this court issued notices to both the parties. Both the parties filed their claim petition and written statement respectively.

1. **Claim Statement averments in brief:-**

The petitioner union has filed this petition stating that one of its member Mr.K.Vasudevan has joined duty in the respondent hospital in February 1985 as Casual Labour in Maintenance Department. Then he was transferred to Guest House, on 02.05.1994 his job has been regularized and fixed in the time scale pay. The claimant worked in the Guest House from 1987 to 2001, then he was transferred to Pharmacy Section. In last three years he worked in General Stores and on attaining the age of superannuation he retired from service on 30.04.2024 and his last monthly salary is Rs.24,830/-. After the retirement of claimant, the respondent hospital disbursed his retirement gratuity and not disbursed monthly pension amount. Generally the respondent hospital disbursed 50 percent of their last month salary as monthly pension for their retired staffs as per the Superannuation Financial Assistant Scheme. The said monthly pension amount was not disbursed to the claimant and he requested through his letter dated 29.05.2024 to pay the monthly pension. They replied through letter dated 31.05.202 stating that the Superannuation Financial Assistant Scheme is eligible for those who completed their 15 year service on 01.01.2007, but the claimant has completed 12 years and 8



months only, hence as per the Superannuation Financial Assistant Scheme monthly pension cannot be disbursed to the claimant. The reply given by the respondent hospital is not acceptable, because the respondent hospital has not considered his service period from 1985 to 1994 which is against the law. Further it is the law that daily wage period of the employee also to be calculated to disburse the monthly pension.

Further the employees namely Kuppan, Mani, Lokeswaran, Ravi, Guna, Dayalan, Sudagar, Ravi are those who have joined after the joining of claimant they are getting monthly pension, thereby the respondent hospital discriminates among the workers and there is unfair labour practice. The claimant is one of a member of the petitioner union, this matter has been discussed in the management meeting held on 21.04.2024, resolution also passed and decided to settle the matter. Thereby petition under Section 2(k) of the Industrial Disputes Act, 1947 was filed before the Assistant Commissioner of Labour, Vellore. In the conciliation proceedings the respondent participated and filed their counter, but no amicable settlement was arrived. Hence, the Assistant Commissioner of Labour, Vellore recorded failure report and sent the same to the Government. Then the Government referred the matter before this court. Hence, the petitioner union has filed this petition to pay the pension amount from 01.05.2024 as per Superannuation Financial Assistant Scheme to the claimant.



2. Written Statement averments in brief:-

The respondent has filed the written statement stating that the respondent hospital involved in the activities such as research in leprosy, which was prevalent in the North Arcot District till 1969 and in training and treatment of patients affected by it and rehabilitation such as encouraging people to undertake livelihood activities in a non profit basis and on a charitable basis. This centre started to provide treatment for other diseases from 1997. As per the records of this hospital the claimant Mr.K.Vasudevan joined duty on 02.05.1994 and for that order issued to him on 23.05.1994 and his date of birth mentioned as 08.04.1964. As per the service rules of the hospital 60 years is the retirement age, based on that the claimant was relieved from service on 30.04.2024 and order also issued to him on 01.05.2024. The employees of this hospital are entitled to retirement benefits in addition to the provident fund pension they receive on the basis of merit, under the Superannuation Financial Assistant Scheme (SAFA) which was implemented from 01.04.1992 and according to it, the employees who retire after 20 years of service are entitled to this benefits. Then changes were made to those rules and later on 01.01.2007, it was amended to provide that employees who have been in service for 15 years are entitled to receive this benefits. On considering the above, the claimant had worked 12 years and 8 months only as on 01.01.2007. Further it is considered that he is not entitled to get



pension benefits as per Superannuation Financial Assistant Scheme. The relief sought by the petitioner union is not a right that a retired employee can obtain under the Industrial Disputes Act. The claimant was not an employee under definition of Section 2(s) of the Industrial Disputes Act on the date of filing of this petition and the relief is not a legal right. This petition is not maintainable and has to be dismissed.

3. On the side of Petitioner, Tmt.Juli Lakshmi was examined as WW1 and through her Ex.W1 to W5 were marked. On the side of respondent, no witnesses were examined and Ex.M1 to M26 were marked with consent.

4. The issue to be decided as stated in the Government reference is as follows:-

The demand of the petitioner union is that Thiru.K.Vasudevan is entitled to pension under the Superannuation Financial Assistant Scheme which is valid or not?

5. Issue :-

It is the case of the petitioner that the claimant joined duty in respondent concern in 1985 as Casual Labour in the Maintenance Department and on 02.05.1994 his services has been regularized and he retired from service on 30.04.2024. The monthly wages of Thiru.K.Vasudevan at the time of retirement is Rs.24,830/-. The retirement



benefits has been paid but he was not granted pension according to the Superannuation Financial Assistant Scheme of 50% of the last drawn salary. K.Vasudevan has sent a letter to the respondent on 29.05.2024. The respondent replied on 31.05.2024. In the reply, it has been mentioned that on 01.01.2007, Thiru.K.Vasudevan should have completed 15 years of service in order to claim the benefits under the Superannuation Financial Assistant Scheme, but he has been in service only for 12 years 8 months as on 01.01.2007. The employees Kuppan, Mani, Lokeshwaran, Ravi, Guna, Dayalan, Sudhakar, Ravi have joined duty after him and they have been receiving the pension. Hence, the issue to be decided is whether Thiru.K.Vasudevan is entitled to pension under the Superannuation Financial Assistant Scheme. After referral of the dispute to the Government Thiru.K.Vasudevan expired on 30.04.2025 and he is succeeded by his wife and children. The death certificate is marked as Ex.W1 and the legal heir certificate is marked as Ex.W2.

It is the case of the respondent that the respondent hospital is engaged in research of Leprosy, treatment of leprosy patients and rehabilitation and there is no profit motive. According to the documents K.Vasudevan joined duty on 02.05.1994. The orders were issued to him on 23.05.1994 and his date of birth is 08.04.1964 and he attained the age of superannuation on 30.04.2024. The employees who were in service for 15



years are entitled to the benefits under the Superannuation Financial Assistant Scheme. As on 01.01.2007 Vasudevan has completed 12 years 8 months of service and he is not entitled to the benefits of the scheme and Kuppan who joined on 01.06.1988, V.Mani who joined on 01.07.1981, Victor Manual who joined on 01.02.1989, V.Ravi who joined on 26.05.1987, I.Gunasekaran who joined on 01.12.1986, Dayalan who joined on 23.05.1987, M.R.Ravi who joined on 27.03.1987 are eligible under the Superannuation Financial Assistant Scheme. K.Sudhakar Babu who joined on 01.05.1993 is not entitled to the benefits of the scheme. The claimant Vasudevan was not a worker under Section 2(s) of the I.D.Act, when he has claimed the benefit under the Superannuation Financial Assistant Scheme and retired employee cannot claim the benefits of the scheme.

In fact, a workman who had retired is also considered as a workman under Section 2(s) and 2(k) of the Industrial Disputes Act, as decided by the **Hon'ble High Court of Madras in W.P.No.995 of 2015 - Parry Retired Employees Welfare Association Vs. The Government of Tamil Nadu and 3 others** in para 17 is stated as follows:

17. Thus, from the above said pronouncements, this Court is of the view that both Sections 2(k) and 2(s) of the Industrial Disputes Act, 1947, to be given wider interpretation to include a workman, who is retired as well. After all, a workman retires by contingency, as on



fact, he was indeed working under the management. The learned counsel appearing for the petitioner has made reliance on the decision of the Mumbai High Court in ICI India Ltd., V. Presiding Officer, Bombay (DB) (dated 19.06.1994), wherein it has been held as follows:

The expression 'Industrial dispute', as Section 2(k) of the Act, means any dispute or difference between employers and employees which is connected with the employment or non- employment or the terms of employment or with the conditions of labour, of any persons. It was urged that Section 2(s) defines 'workman' as any person employed in any industry for hire or reward, and a pensioner, who is retired from employment, cannot be treated as 'any person employed. We are unable to find any merit in the contention. The expression 'any person' in Section 2(s) must be interpreted liberally so as to include past and present about revision of pensioners benefit cannot be raised by the existing workmen and which dispute takes in its sweep the benefit which is available even to a retired employee.

So the claimant Vasudevan has all rights to raise the dispute.

Vasudevan has addressed the respondent on 06.11.1989 stating that he has been working in the Guest House from February 1985 on Daily Wages. He has to support his family which consists of his father, mother and brothers and has stated that he would be grateful if he is considered on consolidated salary basis and the respondent Director by his order of



appointment has stated that he is happy to inform that he has been considered for regular appointment in the Guest House with effect from 02.05.1994. This letter for offer of appointment reveals that from the post of Daily Wages he has been considered for regular appointment and only because of that recitals of the offer of appointment reveal that he has been considered for regular appointment as Helper. This offer of appointment is marked as Ex.W4 and appointment order has been given on 02.05.1994. This appointment order is Ex.W5. The management objects to taken into consideration Ex.W3 on the ground that it is the xerox copy which cannot be admitted in evidence and further the management is not having the documents during the relevant period. After raising the dispute Vasudevan died, his wife appeared before the court and she was not able to say the contents of Ex.W3. It is true that acknowledgment of Ex.W3 is not available, but however based on the representation of Vasudevan through Ex.W3, he has been considered for regular appointment by the management through Ex.W4. If Thiru.K.Vasudevan has not given Ex.W3 he would not have been considered for regular appointment. So acknowledgment of Ex.W3 is not necessary. Naturally WW1 who is the wife of deceased employee will not know the representations sent by her husband and the proceedings before the Assistant Commissioner of Labour. She is a illiterate person and she cannot be expected to say the date of appointment, she has stated that her husband joined duty on 02.05.1994,



but however during the initial period Vasudevan would not have been married and the letter dated 06.11.1989 reveals that he had to support his family which consists of his father, mother and brothers. So during the initial appointment he has not been married. The appointment order of Vasudevan on 02.05.1994 and his retirement order dated 15.04.2024 has been produced. After retirement Vasudevan on 29.05.2024 has addressed the respondent stating that he has started his carrier in the year 1985 as Daily Wages and retired on 30.04.2024, after completing 40 years of service. He has stated that the service pension has been kept silent and he claims service pension from 01.05.2024. His representation is marked as Ex.M24. The respondent has replied that the Superannuation Financial Assistant Scheme provides benefit for employees who have completed 15 years of continuous service as on 01.01.2007 and according to the respondent he has joined duty on 02.05.1994 and on 01.01.2007 he has completed only 12 years and 8 months and the respondent has made it clear that he is not eligible for the benefit. His reply is marked as Ex.M25. The respondent has produced the appointment order of Kuppan as Watchman on consolidated salary of Rs.450/- in the year 1988 and on 01.12.1993 his job has been regularized as Attender, the documents pertaining to Kuppan shows the initial date of appointment to be in the year 1988 and the appointment orders are Ex.M2 and M3. He has been relieved from service on 31.07.2018 through Ex.M4. Thiru.V.Mani has been appointed on



01.07.1981 as Attender through Ex.M5 and he has retired on 30.04.2016 through Ex.M6. Thiru.Victor Immanuel has been appointed on 01.02.1989 through Ex.M7 and he has retired on 31.07.2022 through Ex.M8. The initial appointment order of Thiru.Ravi on 26.05.1987 is marked as Ex.M9 and the appointment order dated 01.12.1993 as Attender is marked as Ex.M10, he has retired from service on 30.04.2024 through Ex.M11. Thiru.Gunasekaran has been appointed as Attender on 01.12.1986 through Ex.M12 and he retired from service on 30.04.2024 through Ex.M13. Initially Dayalan has been appointed on 23.05.1987 through Ex.M14 and appointment order dated 01.12.1993 is marked as Ex.M15, he has retired from service on 30.09.2023 through Ex.M16. Initially Thiru.M.R.Ravi has been appointed as Attender on 27.03.1987 through Ex.M19 and subsequently on 01.07.1991, he has been appointed as Attender through Ex.M20, he has retired from service on 31.07.2023 through Ex.M21. The claimant Vasudevan states that these persons Kuppan, Mani, V.Manipal, Thiru.Ravi, Gunasekaran, Dayalan and M.R.Ravi have joined duty after Vasudevan.

The respondent states that no such documents Ex.W3 was addressed to the respondent and there are no records in the hospital and they state Vasudevan's date of appointment cannot be considered as February 1984. The claimant has by primary evidentiary burden produced the old records which shows his date of appointment to be February 1985. Now it is for



the employer on whom the onus has shifted to produce the original record for which he is the custodian. To show that such documents never existed or the claimant did not work for the period claimed. The respondent could have produced the records of the daily wages to prove that in February 1984 Vasudevan was not in service. If the respondent states that the originals are not traceable in their office it cannot defeat the rights of the claimant who claims pension. The administrative lapses or missing records should not prejudice the employee who have actually rendered service for 40 years. Ex.W4 which is the appointment order discloses that he has been considered for regular appointment disclose that previously he has been working in the respondent hospital under daily wage scheme. The respondent has failed to furnish the records to deny the claim of the petitioner and adverse inference can be drawn against the respondent. The authorities cannot deny the benefits to the employees under hyper technical ground, when the workers have served for long period, the respondent's failure to maintain original records cannot prejudice the employee who has otherwise established continuity of service through secondary materials.

The Hon'ble Assam High Court in CDJ 2025 Assam HC 198 in W.P. (C) No1707/2021 - Dhanapati Lahkar and Others Vs. The Union of India, Rep. by the Secretary to the Government of India, New Delhi and Others has held in para 13, 16, 17, 18, 19, 21, 22, 26, 27.



"13. The respondent employer took the stand that the documents produced by the petitioners in support of their claim were photocopies without authentication and, therefore, they were not entitled to any relief based on such documents. It is important to note that the respondent employer has only stated that the originals of such documents are not available with them, but has not disputed their existence at any time. Further, they admit that the petitioners have continued to work as casual labourers since their initial engagement to date.

16. The fact remains that the documents relied on by the petitioners i.e. the Attendance Register, Bank Statement, payment of wages etc., are not termed by the respondent employer as fraudulent or manufactured; rather, it is their stand that they do not have the original records.

17. The fact that the petitioners were engaged, sought to be terminated, and continued in service till date, is not in dispute. Therefore, the Tribunal's approach, in our view, suffers from legal infirmity. The petitioners discharged their primary evidentiary burden by producing contemporaneous records demonstrating continuous engagement. In fact, such documents were accepted, and the claim of the petitioners was allowed by the Tribunal in OA No. 198/2002, which was also not challenged by the employers in a higher forum; however, in altogether different circumstances, Section 22(3) of the Administrative Tribunal Act, 1985, was applied to the case of the petitioner.



18. In the proceeding before the Tribunal, where the records were produced even in photocopy form, the onus shifted to the employer, the custodian of the original service record, to show that such documents never existed or that the petitioners did not work for the period claimed. Once the employer admits the engagement and continuation of the petitioners as casual workers till date, the burden shifts to the employer to justify why the benefit of the Scheme, 1989 should be denied.

19. As recorded hereinabove, the respondent employer does not deny that the petitioners were indeed engaged, nor do they assert that the petitioners did not complete 240 days in any particular year. Their only stand is that the originals are “not traceable” in their office. In our opinion, such a plea cannot defeat substantive rights flowing from a statutory/departmental regularisation Scheme, that too when it was introduced in compliance of a dicta of the Apex Court.

21. The Administrative lapses or missing records should not prejudice employees who have actually rendered service. It is apposite to record here that the Scheme, 1989, has the force of a binding policy framed under the direction of the Hon’ble Apex Court. Therefore, the right created under the Scheme, 1989, is vested in favour of eligible casual workers, and the refusal of such status to workers who have completed 240 days would amount to an arbitrary action.

22. In the considered opinion of this Court, when it is not disputed that the petitioners have been



continuously rendered their service since the year 1992 and when the employer fails to furnish records to deny the claim of the petitioners, an adverse inference can be drawn under well-established beneficial labour jurisprudence. In *Shripal and Another –Vs- Nagar Nigam Ghaziabad* [2025 SCC Online SC 21], the Apex Court held that Indian Labour Law strongly disfavors perpetual daily wage or contractual engagement in circumstances where the work is permanent in nature.

26. The petitioners produced before the Tribunal certificates regarding continuous engagement, pay records (ACG-17 Pay Bills) etc., confirming their continued deployment under various Telecom Divisions. The Tribunal, however, rejected their claim solely on the ground that the documents produced were photocopies without authentication, which do not find favour with this Court as recorded hereinabove.

27. We are constrained to hold that the Tribunal's approach suffers from legal infirmity, more particularly, in the backdrop of the stand of the respondent employer of not having the original records and non-denial of authenticity of such documents. In our opinion, when the employer has framed the Scheme for the grant of temporary status and regularisation, the authorities cannot deny its benefits on a hyper-technical ground, particularly when the workers have served for long years in perennial work. The employer's failure to maintain the original record cannot prejudice employees who otherwise had established their engagement and continuity of service through secondary materials.



This decision squarely applies to the case on hand. As on 01.01.2007 the claimant Vasudevan has completed 21 years 10 months of service and he has been eligible for pension under the Superannuation Financial Assistant Scheme from 01.05.2024.

Issue is answered accordingly.

The above references made by the Government is answered accordingly.

In the result, the demand of the petitioner union is accepted by this court and the legalheirs of the deceased K.Vasudevan are eligible to get the pensionary benefits on behalf of the deceased K.Vasudevan from the respondent under the Superannuation Financial Assistant Scheme from 01.05.2024 and there is no order as to costs.

Dictated to the Steno-Typist, typed directly in the Computer, corrected and pronounced by me in the Open Court, on this the 03rd day of August, 2026.

**Presiding Officer,
Principal Labour Court,
Vellore.**



1. List of Witnesses on the side of the Petitioner:-

WW1 – Juli Lakshmi

2. List of Exhibits on the side of the Petitioner:-

- Ex-W1 – ---- – Copy of Death Certificate of the Claimant
- Ex-W2 – ---- – Copy of Legalheir Certificate of the Claimant
- Ex-W3 – 06.11.1989 – Copy of Letter issued by the Claimant
- Ex-W4 – ---- – Copy of Offer of Appointment Letter issued to the Claimant
- Ex-W5 – 02.05.1994 – Copy of Appointment Order

3. List of Witnesses on the side of the Respondent:-

– NIL –

4. List of Exhibits on the side of the Respondent:

- Ex-M1 – ---- – Copy of Rules and Regulations governing Retirement Benefit for Permanent Cadre Staff
- Ex-M2 – 23.05.1988 – Copy of Appointment Order of Mr.K.Kuppan on consolidated pay
- Ex-M3 – 01.12.1993 – Copy of Appointment Order of Mr.K.Kuppan on regular pay
- Ex-M4 – 01.08.2018 – Copy of Relieving Order of Mr.K.Kuppan
- Ex-M5 – 01.07.1981 – Copy of Appointment Order of Mr.V.Mani
- Ex-M6 – 03.05.2016 – Copy of Relieving Order of Mr.V.Mani



- Ex-M7 – 01.02.1989 – Copy of Appointment Order of Mr.S.Victor Immanuel @ Lokeswaran
- Ex-M8 – 01.08.2022 – Copy of Relieving Order of Mr.S.Lokeswaran
- Ex-M9 – 26.05.1987 – Copy of Appointment Order of Mr.Ravi on consolidated pay
- Ex-M10 – 01.12.1993 – Copy of Appointment Order of Mr.Ravi
- Ex-M11 – 01.05.2024 – Copy of Relieving Order of Mr.V.Ravi
- Ex-M12 – 01.12.1986 – Copy of Appointment Order of Mr.I.Gunasekaran
- Ex-M13 – 01.05.2024 – Copy of Relieving Order of Mr.I.Gunasekaran
- Ex-M14 – 23.05.1987 – Copy of Appointment Order of Mr.V.Dayalan on consolidated pay
- Ex-M15 – 01.12.1993 – Copy of Appointment Order of Mr.V.Dayalan
- Ex-M16 – 02.10.2023 – Copy of Relieving Order of Mr.V.Dayalan
- Ex-M17 – 01.05.1993 – Copy of Appointment Order of Mr.K.Sudhakar Babu
- Ex-M18 – 02.01.2019 – Copy of Relieving Order of Mr.K.M.Sudhakar Babu
- Ex-M19 – 27.03.1987 – Copy of Appointment Order of Mr.M.R.Ravi on consolidated pay
- Ex-M20 – 01.07.1991 – Copy of Appointment Order of Mr.M.R.Ravi
- Ex-M21 – 01.08.2023 – Copy of Relieving Order of Mr.M.R.Ravi
- Ex-M22 – 02.05.1994 – Copy of Appointment Order of Claimant
- Ex-M23 – 15.04.2024 – Copy of Retirement Order of Claimant

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Ex-M24 – 29.05.2024 – Copy of Letter Claimant's sent to respectively
Ex-M25 – 31.05.2024 – Copy of Letter issued by respondent to the
claimant with acknowledgment card
Ex-M26 – ---- – Copy of School Record Sheet of the Claimant

**Presiding Officer,
Principal Labour Court,
Vellore.**