

(2002) 06 MAD CK 0217

Madras High Court

Case No: Writ Petition No. 19522 of 1994

The Tamil Nadu Judicial Officers
Association

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision: June 4, 2002

Hon'ble Judges: R. Jayasimha Babu, J; A. Packiaraj, J

Bench: Division Bench

Advocate: Ashok Menon, for the Appellant; S.T.S. Murthy, Special Govt. Pleader, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

R. Jayasimha Babu, J.

Judicial Officers contend that they are not liable to pay profession tax on the ground that the Judges are not employees. Counsel for the Petitioner places reliance on paragraph 7 of the judgment of the Supreme Court in the case of [All India Judges' Association and Others Vs. Union of India and Others](#), .

2. The stand so taken by the Petitioner for contending that they are not to be made to pay tax is wholly untenable. For the purpose of levy of profession tax the question as to whether the Judges are employees of the State is wholly irrelevant. The Schedule to the relevant Notification of the Tamil Nadu Act 24 of 1992 published in the Government Gazette dated 15.06.1992 refers to salary and wage earners whose monthly salaries or wages are at the levels set out in eight different slabs ranging from Rs. 1500 to Rs. 15,000 and above. There can be no doubt that the Judges of the Subordinate Judiciary receive salary and that their salary is an amount which is known and is fixed in a graded scale. There can also be no doubt that the Judges do carry on a profession. These two factors are sufficient to bring them within the net of the law providing for levy of profession tax which, inter alia, provides for levy of

tax on salary and wage earners.

3. The observations made by the Supreme Court in the case relied upon were made in an entirely different context. Those observations were made to drive home the point that the Judges of the Subordinate Judiciary are not to be regarded as employees of the Government in the same sense as those in the executive branch of the Government are. That judgment did not deal with the question as to whether the Judges carry on a profession, and as to the manner in which the amount they receive for the service they render is to be characterised.

4. The Supreme Court in its recent judgment in the case of [V.S. Mallimath Vs. Union of India and Another](#), referred to the case relied on by the Petitioner herein and has pointed out that for the purpose of payment of salary and pension, Judges are to be treated in the same manner as other persons receiving salary. We see no merit in the writ petition.

5. The writ petition is dismissed. Consequently, WMP. No. 29765 of 1994 is dismissed.