

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.07.2017
CORAM

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
And
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.1751 of 2014
And
M.P.No.1 of 2014

- 1.The Special Commissioner,
Government Data Centre,
Chennai - 600 025.
- 2.The Assistant Elementary Educational Officer,
Thalainayiru, Nagapattinam District.
- 3.The Accountant General (A&E), Tamil Nadu,
Chennai - 600 018.
- 4.Director of Elementary Education,
Chennai - 600 006.
- 5.Secretary to Government of Tamil Nadu,
Education Department,
Secretariat, Chennai - 600 009.... Appellants/Respondents

Vs.

P.Ravi Respondent/petitioner

Prayer:

Writ Appeal filed under Clause 15 of Letters Patent seeking to set aside the orders dated 28.02.2014 made in W.P.No.22244 of 2009.

WP.No.22244 of 2009:Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by th first respondent heein in Na.Ka.NO.4978/A1/2009 dated 14/09/2009 and to quash the same and consequently direct the first respondent herein to grant Account Number for Teachers Provident Fund to the petitioner as granted to the Petitioners who were working as Secondary Grade w.e.f.11/03/2002 and the 5th respondent government have also fairly admitted the delay in deputing the petitioner and others for Child Physchology Training Purely an administrative delay in G.O.109 School Education Department dated 16/08/2004

For Appellants : Mr.P.Sivashanmugasundaram
Special Government Pleader
For Respondent : Mr.R.Manoharan

J U D G M E N T

(Order of the Court was made by NOOTY.RAMAMOHANA RAO,J.)

This writ appeal is preferred by the Special Commissioner, Government Data Centre, Chennai, the Assistant Elementary Educational Officer, Thalainayiru, Nagapattinam District, the Accountant General (A&E), Tamil Nadu, Chennai, the Director of Elementary Education, Chennai and the State of Tamil Nadu aggrieved by the judgment rendered by the learned Single Judge allowing the writ petition holding that the writ petitioner is entitled to the benefit of the old pension scheme and the general provident fund which are applicable to the Teachers who were appointed prior to 01.04.2003.

2.The short question which falls for consideration is that the writ petitioner who has obtained his B.A. Degree in the year 1992 was awarded B.Ed. Degree in the year 2000 and consequently, was appointed as a Basic Trained Teacher (B.T.Assistant) in an aided school at Avarikkadu on 11.03.2002 and the writ petitioner was also directed to undergo one month Child Psychology Training conducted by the Government of Tamil Nadu and he has successfully completed the said training and hence, his appointment as Secondary Grade Teacher made on 11.03.2002 was approved. However, the approval of the said appointment was made with effect from 28.10.2004.

3.In the meantime, the State Government had taken a Policy Decision and announced the same through their G.O.Ms.No.430, Finance Department, dated 06.08.2003 setting forth that persons recruited after 01.04.2003 are not entitled to be governed by the Tamil Nadu Pension Rules, 1978, but instead they will be governed by the new Scheme called as Contributory Pension Scheme. Since the service of the writ petitioner as a Secondary Grade Teacher was approved and consequently regularized with effect from the date beyond 01.04.2003, the writ petitioner is not rendered eligible to receive the pensionary benefits in terms and in accordance with the Tamil Nadu Pension Rules, 1978.

4.Therefore, the short question which has engaged the attention of the learned Single Judge in the writ petition was whether the initial date of recruitment as a Secondary Grade Teacher is relevant or regularization of the services of such a Teacher with effect from a date subsequent to 01.04.2003, should

determine the eligibility for applicability of Tamil Nadu Pension Rules, 1978.

5. Fortunately, there is no dispute on either side that when a similar question has fallen for consideration of another Division Bench, which by its judgment rendered on 02.04.2004 in The State of Tamil Nadu and others Vs. Pallivasal Primary School (2004-2-L.W.591), held that the past service rendered would count for pensionary benefits by such of those Teachers who were recruited prior to 01.04.2003 but were regularized after 01.04.2003. The question was answered in favour of the Teachers by holding that such past service shall however, count for pension. In view of the judgment rendered by this Court in The State of Tamil Nadu and others Vs. Pallivasal Primary School, the issue or controversy raised in this writ appeal stands concluded against the State.

6. The State Government has already accepted the judgment referred to supra and implemented it. Therefore, the State could not have taken a different stand in the present case. It is also brought to our notice that several persons who are similarly placed as that of the writ petitioner were granted the benefit of applicability of the Tamil Nadu Pension Rules, 1978. Therefore, we see no reason as to why a different treatment should be meted out in the case of the writ petitioner.

7. Consequently, since we are of the view that the reasoning assigned by this Court in the State of Tamil Nadu and others Vs. Pallivasal Primary School will hold good and apply equally to the present case on hand, accordingly, following the said judgment, we dismiss this writ appeal but however, without costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

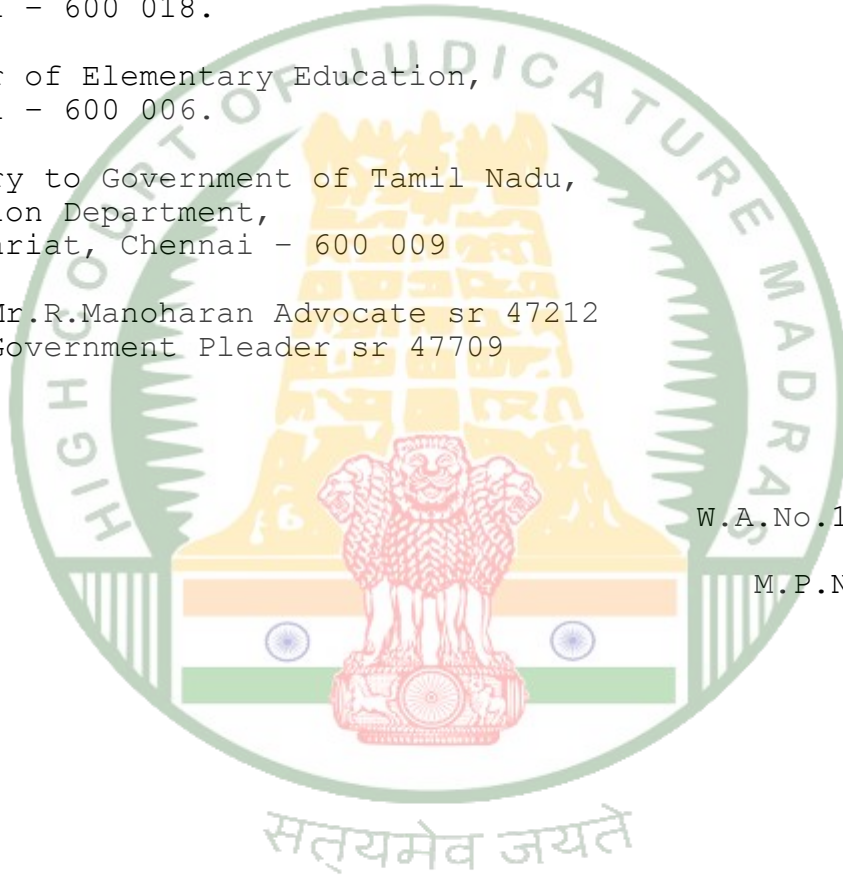
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To

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 - 3.The Accountant General (A&E), Tamil Nadu,
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 - 4.Director of Elementary Education,
Chennai - 600 006.
 - 5.Secretary to Government of Tamil Nadu,
Education Department,
Secretariat, Chennai - 600 009
- +1 cc to Mr.R.Manoharan Advocate sr 47212
+1 cc to Government Pleader sr 47709

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