

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.4716/2017 & WMP.No.4942/2017

1. Mr.J.Gandhimohan
General secretary, PIPMATE INTEGRATED STAFF
WELFARE ASSOCIATION,
No. 14, Gandhi Street, Shanthi Nagar,
Lawspet, Puducherry-605 008.
 2. A. Ramatchandran
 3. T. Chandra
 4. N. Vilvanathan
 5. S. Vadivelu
- Petitioners

Vs

1. The Chief Secretary,
Government of Puducherry,
Puducherry.
2. The Secretary to Govt. (Education) cum chairman,
Pondicherry Institute of Post Metric Technical Education
Government of Puducherry,
Puducherry.
3. The Secretary to Govt. (Finance),
Government of Puducherry,
Puducherry.
4. The Member Secretary cum Director
Directorate of Higher and Technical Education
Pondicherry Institute of Post Metric Technical Education,
Puducherry.

.... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus or any other appropriate writ or order or direction in the nature of writ, direct the respondents to forthwith quantify, fix and disburse appropriate pension and pensionary benefits including family pension to the deceased employees, who are appointed and continued under the GPF Scheme by applying the

Pension Scheme to the members of the petitioner Association and the aggrieved individuals who were appointed prior to 01.01.2001, as had been granted and extended to other similar Societies wholly funded by the Government of Puducherry.

For Petitioner : Ms.N.R. Jasmine Padma
For R1 & R3 : Mrs.D.Reena Iswarya, AGP
For R2 & R4 : Mr.T.M.Naveen

ORDER

By consent, the writ petition is taken up for final disposal. Mrs.D.Reena Iswarya, learned Additional Government Pleader accepts notice on behalf of the respondents 1 and 3 and Mr.T.M.Naveen, learned counsel accepts notice on behalf of the respondents 2 and 4.

2.The petitioner would aver that they are the employees of the 2nd respondent / Society, which is a non-profit making educational society financed wholly and substantially by the Government of Puducherry by way of Grant-in-Aid in the light of G.O[RT] No.244, Chief Secretariat [Education] Department, dated 07.10.2014. It is further averred by the petitioner that as per the decision taken during the 13th Governing Body Meeting held on 29.09.1997, it has been decided to continue with the benefits of Gratuity, Pension, Family Pension etc., to the employees of the 2nd respondent /Society by obtaining specific exemptions from the Employment Provident Fund Authority and the exemption was refused to be granted and it was also the subject matter of challenge in WP.No.2358/2004 and vide order dated 28.07.2011, the said writ petition was allowed, declaring the provisions of EPF Act, are ***inapplicable**.

3.A further decision has also been taken that the employees of the Society will be governed by the Service Rules as applicable in the Administration of the Union Territory of Puducherry in toto except with regard to the pension and General Provident matter and it was further resolved the employees appointed up to ***31.12.2000**, may be continued to be governed by General Provident Fund scheme. The grievance expressed by the petitioners is that though most of them had retired from service, the benefits of pension and gratuity have not been settled so far and in the interregnum, two former employees had also died and in this regard, the petitioners have also submitted a representation dated 17.07.2015 to the 2nd respondent and despite receipt and acknowledgment, so far no orders have been passed and hence, the petitioners came forward to file the present writ petition.

4. Heard the submissions of the learned counsel appearing for the petitioner ; Mrs.D.Reena Ishwarya, learned Additional Government Pleader [Puducherry] appearing for the respondents 1 and 3 and Mr.J.M.Naveen, learned counsel appearing for the respondents 2 and 4, who would submit that by virtue of the fact that the 2nd respondent / Society receives Grant-in-Aid, it does not mean that the writ petition is maintainable and prays for time for getting necessary instructions.

5.A perusal of G.O.[Rt] No.244, Chief Secretariat [Education] Department, dated 07.10.2014, would disclose that Grant-in-aid has been made in favour of the 2nd respondent/Society and it is also the specific stand of the petitioners that even in the year 2012, a decision has been taken that the employees of the 2nd respondent / Society shall be governed by the Service Rules as applicable in the Administration of the Union Territory of Puducherry in toto except pension and General Provident Fund matter and also fixation of the cut-off date for the applicability of the said benefit. In the light of the same, this Court is of the view that the writ petition is maintainable against the 2nd respondent / Society.

6 Though the petitioner has prayed for a larger relief, this Court in the light of the above facts and circumstances and without going into merits of the claim projected by the petitioners, permits the petitioners to submit one more representation to the respondents 2 and 4 along with a copy of this order as well as a copy of their earlier representation dated 17.07.2015, within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the respondents 2 and 4 are directed to consider the said representation on merits and in accordance with law and pass appropriate orders within a further period of six weeks thereafter and communicate the decision taken, to the petitioners.

7.The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

sd/
Assistant Registrar(CS VIII)

***Corrected as per order
of this court dated:14/03/2017
-s/d-
Assistant Registrar(CSVIII)
dt:20/03/2017**

/true copy/

Sub Assistant Registrar

To

1. The Chief Secretary,
Government of Puducherry,
Puducherry.
2. The Secretary to Govt. (Education) cum chairman,
Pondicherry Institute of Post Metric Technical Education
Government of Puducherry,
Puducherry.
3. The Secretary to Govt. (Finance),
Government of Puducherry,
Puducherry.
4. The Member Secretary cum Director
Directorate of Higher and Technical Education
Pondicherry Institute of Post Metric Technical Education,
pondicherry.

**To be Substituted to the
order already despatched on
13/03/2017**

+1cc to Mr.l.Chandrasekaran, Advocate sR.No.12033
+1cc to Mr.T.M.Naveen, Advocate sR.No.12248
+1cc to Government Pleader SR.No.12320

W.P.No.4716/2017

LRS (CO)
GN(09/03/2017)
rr(co)
aa20/03/2017