

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 12.04.2017****CORAM****THE HONOURABLE MR. JUSTICE S.S.SUNDAR****W.P. (MD) .No. 6451 of 2017**

1.M.Viswanathan
2.M.Nagarajan
3.M.Jeyakumar
4.K.Selva Shunmuga Sundaram
5.T.C.Ravikumar
6.M.Karthikeyan

... Petitioners

Vs.

1.The Union of India,
Through Cabinet Secretary,
Rashtrapathi Bhavan,
New Delhi - 110 004.

2.The Secretary,
Department of Financial Services,
Ministry of Finance,
3rd Floor, Jeevan Deep Building,
Sansad Marg,
New Delhi - 110 001.

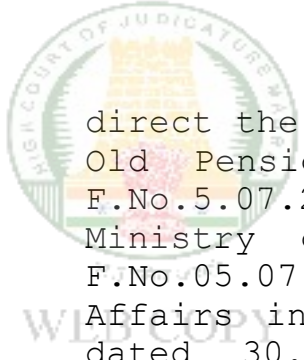
3.The Secretary,
Department of pension & Pensioner's Welfare,
Ministry of Personnel, Public Grievances and Pensions,
Lok Nayak Bhawan, Khan Market,
New Delhi - 110 003.

4.The Chairman,
Pension Fund Regulatory and Development Authority,
B-14/A, Chatrapati Shivaji Bhawan,
Qutab Institutional Area,
Katwaria Sarai,
New Delhi - 110 016.

5.The Principal Chief Commissioner of Income Tax,
121, Mahatma Gandhi Salai,
Nungampakkam,
Chennai - 600 034,
Tamil Nadu.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents to consider the representations given by the 1st to 3rd petitioners on 18.06.2015, 4th petitioner on 19.06.2015, 5th petitioner on 22.06.2015 and 6th petitioner on 25.06.2015 to their appointing authority (i.e., the 5th respondent) and further to



direct the respondents to bring the 1st to 6th petitioners under the Old Pension Scheme as the Resolution dated 10.10.2003 vide F.No.5.07.2003-ECB & PR of the Department of Economic Affairs in Ministry of Finance, the Notification dated 22.12.2003 vide F.No.05.07.2003-ECB & PR issued by the Department of Economic Affairs in Ministry of Finance and the Notification S.O.1483(E) dated 30.12.2003 issued by the Department of Pension and Pensioner's Welfare in the Ministry of Personnel, Public Grievances and Pensions, drastically failed to function as it is notified in its purpose and in bringing the effective pension scheme.

For Petitioner : Mr.V.Rajiv Rufus
 For Respondent 1 to 4 : Mr.P.Paul Pandi
 Senior Panel Counsel

O R D E R

The above writ petition is filed for issuing a Writ of Mandamus, to direct the respondents to consider the representations given by the 1st to 3rd petitioners on 18.06.2015, 4th petitioner on 19.06.2015, 5th petitioner on 22.06.2015 and 6th petitioner on 25.06.2015 to their appointing authority (i.e., the 5th respondent) and further to direct the respondents to bring the 1st to 6th petitioners under the Old Pension Scheme as the Resolution dated 10.10.2003 vide F.No.5.07.2003-ECB & PR of the Department of Economic Affairs in Ministry of Finance, the Notification dated 22.12.2003 vide F.No.05.07.2003-ECB & PR issued by the Department of Economic Affairs in Ministry of Finance and the Notification S.O.1483(E) dated 30.12.2003 issued by the Department of Pension and Pensioner's Welfare in the Ministry of Personnel, Public Grievances and Pensions, drastically failed to function as it is notified in its purpose and in bringing the effective pension scheme.

2. Heard Mr.V.Rajiv Rufus, learned counsel for the petitioners and Mr.P.Paul Pandi, learned Standing Counsel for respondents 1 to 4.

3. The grievance of the petitioners in this case is about the introduction of new Pension Scheme which is applicable to them as they were appointed after the crucial date. Ignoring the legal implications, the petitioners have made representations to the Principal Chief Commissioner of Income Tax, Chennai and respondents 1 and 2 to look into their grievance so that the petitioners are assured all retirement benefits which were available to Government Servants prior to 01.01.2004. The petitioners have filed the present Writ Petition to direct the respondents to consider the representations of the petitioners.



4. It is not in dispute that the Central Government has promulgated an ordinance and an enactment with regard to the applicability of the New Pension Scheme with effect from a particular date. It is not in dispute that the petitioners are affected by the notification issued by the Central Government and the enactment Pension Fund Regulatory and Development Authority Act, 2013.

5. In such circumstances, it is pointed out to the learned counsel for the petitioner that the petitioners cannot seek a direction from this court to do something in violation of notification or the new Pension Scheme which has got a statutory force. Realising the mistake, the learned counsel for the petitioners seeks permission of this court to withdraw the writ petition however, with a liberty to challenge the notification and enactment and other executive instructions which are likely to effect the petitioners' interest and service conditions.

6. Accordingly, this writ petition is dismissed as withdrawn. However, liberty is preserved. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

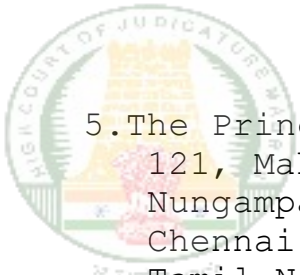
To

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WEB COPY

+1cc to Mr.P.PAUL PANDI Advocate in SR. No.51806
+1cc to Mr.V.RAJIV RUFUS Advocate in SR. No.51629

KM/MR

JS/JC/2.05.2017/4P-8C

ORDER MADE IN
W.P. (MD) .No.6451 of 2017

12.04.2017