



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **14.03.2018**

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A.(MD).No.370 of 2018

and

C.M.P.(MD)No.2278 of 2018

WEB COPY

1. The Secretary to Government,
Education Department,
Fort St. George,
Chennai.
 2. The Directorate of School Education
DPI Campus,
College Road,
Chennai.
 3. The State Project Director,
Teachers Recruitment Board,
Chennai-6.
- ... Appellants

Vs.

1. S.Mary Sherly
 2. The Accountant General,
D.M.S.
Nandanam,
Chennai.
- ... Respondents

PRAYER: This appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 09.01.2013 in W.P.(MD)No.3308 of 2007.

Prayer in WP(MD). 3308/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to treat the petitioner as an employee covered under Tamil Nadu pension rules 1978 prior to its amendment dated 01/04/2003 .

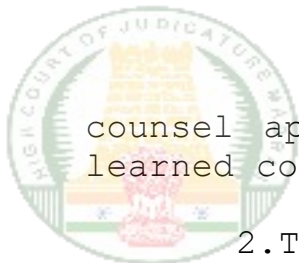
For Appellants	: Mr.V.R.Shanmuganathan Special Government Pleader
For Respondent No.1	: Mr.Thayumanaswamy
For Respondent No.2	: Mr.P.Gunasekaran

JUDGMENT

(Judgment of the Court was delivered by **T.S.SIVAGNANAM, J**)

<https://hcservices.ecourts.gov.in/hcservices/>

Heard Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the appellants, Mr.Thayumanaswamy, learned



counsel appearing for the first respondent and Mr.P.Gunasekaran, learned counsel appearing for the second respondent.

2.This appeal is directed against the order made in W.P. (MD)No.3308 of 2007 Dated 09.01.2013. The first respondent filed the writ petition to direct the respondents to treat her as employee covered under Tamil Nadu Pension Rules, 1978, prior to amendment dated 01.04.2003.

3.The issue involved in this case, pertains to the interpretation of clause (3)(i) of G.O.Ms.No.259 Finance (Pension) Department dated 06.08.2003. The said condition states that a new Contributory Pension Scheme based on defined contributions will be introduced to the newly recruited employees. This will apply to all employees who are recruited on or after 01.04.2003. Admittedly, the first respondent was recruited prior to 01.04.2003 and issued order of appointment on 26.03.2003 and granted one week time to join duty. Prior to joining duty, the petitioner was required to obtain Medical Certificate from the Medical Board. One week time having been expired on 01.04.2003, since the Medical Board meets once in a week, the petitioner was able to get medical Certificate only on 04.04.2003 and joined duty on the said date. The Writ Court, in our considered view, rightly interpreted the meaning of the word "recruited" and word "joined". The newly Contributory Pension Scheme is conscious about words "recruited" and "joined". The recruitment of the first respondent was prior to 01.04.2013, the new Contributory Pension Scheme cannot be applied to the case of the first respondent. The Writ Court has given a correct interpretation.

4.The Special Government Pleader appearing for the appellants has referred to rules and contented that a person becomes a full member of service only from the date of joining the service. In fact, this issue was considered by the Writ Court, taking note of Rule 11 of Pension Rules, which deals with computation of qualifying service and as to whether the qualifying service is computed from the date of commencement or from the date of incumbent takes charge of the post or not. Therefore, the interpretation given by the Writ Court is perfectly valid and proper.

5.Thus, for the above reasons, we find no merits in the writ appeal and the writ appeal fails and is dismissed. No Costs. Consequently, C.M.P.(MD)No.2278 of 2018 is closed.

Sd/-

Assistant Registrar(CS-II)



To

1. The Secretary to Government,
Education Department,
Fort St. George,
Chennai.

2. The Directorate of School Education
DPI Campus,
College Road,
Chennai.

3. The State Project Director,
Teachers Recruitment Board,
Chennai-6.

+1cc to The Spl. Government Pleader Sr.No.55544

MRN

VB/SKN/RSK/SAR2/18/04/2018/3P/5C

W.A. (MD) .No.370 of 2018
14.03.2018