

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated:03.01.2019

Coram
THE HONOURABLE Mr. JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr. JUSTICE R.PONGIAPPAN

W.P.No.10890 of 2018

N.Kalpana

.. Petitioner

Vs.

1.The Registrar General
High Court of Madras
Chennai.

2.The Principal District Judge,
Vellore District, Vellore.

3.The Subordinate Judge,
Office of the Subordinate Court,
Tirupattur, Vellore District.

4.Office of the Principal Accountant General (A & E)
No.361, Anna Salai, Teynampet,
Chennai 600 018.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 4th Respondent herein to revise the petitioner's Employment Provident Fund from the category of "CPS" to "GPF" within the time stipulated by this Court.

For Petitioner : Mr.S.Rajkumar

For Respondents 1 to 3 : Mr.B.Vijay

For 4th Responden : Ms.N.P.Shanthi

For Mrs.Hema Muralikrishnan

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

Heard both sides.

2.According to the Petitioner, he joined as Copyist in the Judicial Department viz., in Copy Section of the Subordinate Court, Tirupattur on 19.11.1999 forenoon. He worked with sincerity and utmost care to the satisfaction of Higher

Officials without any blemish whatsoever. However, he was ousted from service on 16.08.2000, without regularisation of his service.

3. Earlier, the Petitioner had filed W.P.No.35566 of 2002 against the Respondents herein praying for Writ of Mandamus in directing the Respondents to consider her whenever there is a vacancy and on 16.09.2002, the said Writ Petition was disposed of in favour of the Petitioner that whenever there was a vacancy, she should be considered. She was reinstated into service with effect from 16.07.2004 forenoon in the same Copyist post at Subordinate Court, Tiruppathur and on the same day, her service was regularised by the Learned Subordinate Judge, Tiruppathur.

4. The stand of the Petitioner is that when she was in service from 19.11.1999 to 16.08.2000, on 23.06.2000 she was allotted General Provident Fund under GPF No.31429 by the 4th Respondent and a sum of Rs.1000/- was deducted towards GPF from her salary. She received an intimation from the office of the 4th Respondent in Reference No.AG (A & E)/CPS/141601112 dated 14.09.2011 stating that her Provident Fund is under the category of CPS No.7139203/ Judicial.

5. The grievance of the Petitioner is that she is to be allotted only under the category of 'GPF' and not under 'CPS' and made request to the Subordinates including the 4th Respondent on many occasions in person to change her Provident Fund category from 'CPS' to 'GPF'. However, the Respondents have not taken any steps in this regard. Hence, she is perforced to file the present Writ Petition praying for passing of an order by this Court in directing the 4th Respondent to revise the Petitioner's Employment Provident Fund from the category of 'CPS' to 'GPF' within the time adumbrated by this Court.

6. Per contra, it is the submission of the Learned Counsel for the Respondents 1 to 3 that the Petitioner was transitorily appointed as Copyist as per proceedings of the 2nd Respondent/ Principal District Judge, Vellore District dated 16.11.1999 and joined duty on 19.11.1999. Furthermore, she was not conferred with any right or lien over appointment, because of the reason that her appointment was purely temporary, as per Rule 16(i) of the Tamil Nadu Judicial Ministerial Service Rules. She was ousted from service as per proceedings of the 2nd Respondent/Principal District Judge, Vellore dated 11.08.2000 with effect from 16.08.2000 for want of vacancy.

7. The Learned Counsel for the Respondents 1 to 3 brings it to the notice of this Court that the Petitioner filed W.P.No.35566 of 2012 and that she had prayed for issuance of suitable directions to consider her, whenever there arise

vacancy. As per order of this Court, she was appointed as Copyist from 16.07.2004 as per proceedings of the 2nd Respondent/Principal District Judge, Vellore District dated 07.07.2004 and her service was regularised with effect from the date of appointment viz., 16.07.2004 as per proceedings of the 2nd Respondent/Principal District Judge, Vellore District dated 21.06.2007, which fact is very well known to her.

8.The Learned Counsel for the Respondents 1 to 3 proceeds to point out that the Writ Petitioner was originally appointed as Copyist 'Temporarily' with effect from 19.11.1999 and later, she was ousted from 16.08.2000 and nearly after a lapse of four years, she was appointed as 'Copyist' with effect from 16.07.2004 based on the order of this Court in W.P.No.35566 of 2012 and her service was regularised in the post of Copyist with effect from 16.07.2004 as per proceedings of the 2nd Respondent/Principal District Judge, Vellore dated 21.06.2007.

9.Moreover, it is projected on the side of the Respondents 1 to 3 that the Government of Tamil Nadu had introduced the Contributory Pension Scheme to the Tamil Nadu Employees with effect from 01.04.2003 as per G.O.No.259, Finance (Pension) Department, dated 06.08.2003 and accordingly, the State Government Employees, who were appointed on or after 01.04.2003, are ceased to be governed from the Old Pension Scheme. Consequent to the implementation of the Contributory Pension Scheme, the General provident Fund (Tamil Nadu) Rules are not applicable to the Employees appointed on or after 01.04.2003 to the service and posts in connection with the affairs of the State, either 'Temporarily or Permanently' as per G.O.No.304, Finance Department, dated 27.05.2004.

10.The categorical stand of the Respondents 1 to 3 is that as per ingredients of G.O.No.304, Finance Department, dated 27.05.2004, the Writ Petitioner, who was regularly appointed on 16.07.2004 i.e. on or after 01.04.2003, is not entitled to be admitted to the General Provident Fund Rules. As such, the 4th Respondent/Principal Accountant General (A & E), Chennai - 600 018 had allotted CPS No.7139203/Judl to the Writ Petitioner, who was appointed on or after 01.04.2003 i.e. 16.07.2004. Therefore, it is crystalline clear that the Writ Petitioner is not entitled to continue under the category of 'GPF' and as per orders of the 4th Respondent, she is only eligible for 'Contributory Pension Scheme'. Besides that, the Writ Petitioner had not submitted any application for changing her from 'CPS' to 'GPF'.

11.The Learned Counsel for the 4th Respondent submits that the Petitioner, who was appointed on or after 01.04.2003 i.e. 16.07.2004, was rightly allotted CPS No.7139203/Judl and as such, the claim of the Petitioner in the Writ Petition is not to be granted.

12.In view of the foregoing and also considering the respective contentions, this Court is of the considered view that the Petitioner, who was regularly appointed on 16.07.2004 (viz., on or after 01.04.2003), is not entitled to be admitted to the General Provident Fund Rules as per G.O.No.304, Finance Department, dated 27.05.2004. To put it succinctly, the 4th Respondent had rightly allotted CPS No.7139203/Judl to the Petitioner who was appointed on or after 01.04.2003 i.e. on 16.07.2004. Looking at from any angle, the present Writ Petition sans merits.

13.In fine, the Writ Petition is dismissed, leaving the parties to bear their own costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Sgl

To

- 1.The Registrar General
High Court of Madras, Chennai.
- 2.The Principal District Judge,
Vellore District, Vellore.
- 3.The Subordinate Judge,
Office of the Subordinate Court,
Tirupattur, Vellore District.
- 4.Office of the Principal Accountant General (A & E)
No.361, Anna Salai, Teynampet,
Chennai 600 018.

+1cc to Mr.Hema Muralikrishnan, Advocate, S.R.No.1322

W.P.No.10890 of 2018

CA(CO)

rrs 08/02/2019

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