

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2019

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.2590 of 2018

and

CMP No.21076 of 2018

1.The State of Tamil Nadu

rep. by the Secretary to the Government,
Education Department, Secretariat,
St. George Fort,
Chennai - 600 009.

2.The Director of Technical Education,
Directorate, Guindy,
Chennai.

... Appellants/ respondents 1&2

Vs.

1.C.Kumar

2.The Principal,
Annamalai Polytechnic,
Chettinad - 623 102.

... Respondents/ Petitioner/ respondent 3

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent, against the order made in W.P.No.3869 of 2005, dated 20.04.2017.

Prayer in W.P.No.3869 of 2005:

Writ Petition filed under Article 226 of the Constitution of India Praying for issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order in Lr.No.28765/C-1/2004-2 dated 7.1.2005 passed by the 1st respondent and quash the same and direct the respondents 1 and 2 to sanction all consequential legal benefits and pension to the petitioner w.e.f. 7.10.1984.

For Appellants : Mr.P.H.Arvinth Pandian
Additional Advocate General
Assisted by Mr.C.Munusamy.

For R1 : Mr.S.N.Ravichandran

JUDGMENT

(Judgment of the Court was delivered by SUBRAMONIUM PRASAD, J)

Challenging the order dated 20.04.2017 passed in W.P.No.3869 of 2005, by which the writ petition of the first respondent herein, has been allowed, State of Tamil Nadu, represented by the Secretary to the Government, Education Department, has filed the instant writ appeal.

2. The facts in brief, are as under:-

Mr.C.Kumar, the writ petitioner/first respondent herein, joined as a Workshop Instructor in Annamalai Polytechnic, Chettinad/third respondent herein. While he was working as a Lecturer in Electrical Engineering Department, he got a better offer in Lakshmi Ammal Polytechnic, for the post of Principal. The writ petitioner/first respondent, therefore applied for voluntary retirement before the third respondent herein, which was not granted. The writ petitioner therefore resigned from his post on 07.07.1984. The writ petitioner has completed more than 19 years of service.

3. The Government have passed G.O.Ms.No.1015, Education Department, dated 05.06.1981, regarding grant of pension to the staff of Teaching and Non Teaching staff of aided technical institution, G.O.Ms.No.1015, Education Department, read as under:-

"Copy of G.O.Ms.No.1015, Education, dated 5th June 1981.

Subject: Pension for staff of non - Government Educational Institutions - (i) Non - teaching staff of Aided Schools and Colleges, (ii) Teaching and Non - teaching staff of Aided Technical Educational Institutions; & (iii) Staff of Regional Engineering College, Tirchirappalli - Those who retired before the respective Crucial dates - Pension sanctioned from date of order.

ORDER:

The crucial dates from which the Pension Scheme for staff of non-Government Educational Institution was introduced for various categories of staff in non-Government Educational institutions are as follows:-

Education G.O.(Ms) No.
and
date

I(a) Teaching staff of 1.4.1955 1109/31.5.1958
aided and Local body schools
("Aided" for purposes of
retirement benefits always
includes recognized "un-aided"
schools also, including Anglo
Indian Schools).

- (b) Teaching staff of Non- 1.1.1962
853/16.4.1962
Government schools in the
Transferred area.
- II Non-Teaching staff of 1.4.1972
627/11.5.1972
aided schools
- III.(a) Aided colleges - 1.4.1962
1671/15.7.1963
Teaching staff
- (b) Aided colleges - Non
Teaching staff 1.4.1976
2213/11.10.1976
- IV(a) Aided Technical
Educational Institutions - 1.1.1975
650/23.4.1975
Teaching staff
- (b) Aided Technical
Educational 1.4.1977 74/12.1.1978
Institutions - Non
Teaching Staff
- V Regional Engineering
college, Trichirappalli 1.1.1975
1777/31.8.1977
(all Staff).

2. So far as teaching staff of non - Government schools and Aided Colleges are concerned - items i(a) and (b) ; and (iii) (a) under paragraph 1 above - teachers who retired before the respective crucial dates have been given pension with effect from 1st March 1968 (as per G.O.Ms.No.1505, Education, dated 24th September 1968), while the teachers who retired from the schools in the Transferred area before 1st November 1956 are getting pension only with effect from 1st May 1977 with reference to G.O.Ms.No.1394, Education, dated 17th June 1977.

3. So far as (i) non - teaching staff of Aided schools and colleges; (ii) Teaching and non-teaching staff of Aided Technical Education Institution; and (iii) staff (teaching and non - teaching) of Regional Engineering College, Tiruchirappalli are concerned - items (ii), (iii) (b), (iv) (a) and (b) (v) under paragraph 1 above - Family Pension benefits in respect of cases of

Family Pension cases which occurred before the respective crucial dates have already been extended from 1st April 1979 as per G.O.Ms.No.465, Education, dated 13th March 1980. The Government now direct the benefits of Pension (under the non - Government Teacher's Pension Scheme) be also extended with effect from the date of this order to persons belonging to the above three categories of staff who retired at any time before the respective crucial dates. No arrears of Pension shall be paid for any period prior to the date of this order.

4. Full retirement benefits as admissible under the Liberalised Pension rules have so far not been extended to the teaching and non - teaching staff of Aided Technical Educational Institutions and the question of such extension is separately under consideration. Pending such extension staff who retired from Aided Technical Educational Institutions before 1st January 1975 1st April 1977 will get from the date of this order the benefit of Pension only and not DCR Gratuity. The other two categories (Viz. non - teaching staff of Aided schools and colleges and staff of Regional Engineering college, Tiruchirappalli) who retired before the crucial dates will however be eligible for pension as well as Death-cum-Retirement Gratuity.

5. The calculation of Pension will be only on the basis of the pay last drawn - during the last 10 months or 12 months or 36 months service, as the case may be depending on the date of retirement of the persons concerned. The Death-cum-Retirement Gratuity (where admissible) will however be calculated on the basis of the pay last drawn. The minimum Pension admissible pension sanctioned in future will automatically be admissible (As corrected in letter dated 2nd January 1982).

6. On the analogy of the orders in Government Memorandum No.21344/Ey 68-5, Education, dated 18th November 1968, G.O.Ms.No.1483, Education, dated 27th August 1973 and G.O.Ms.No.1196, Education, dated 15th July 1975 the following further clarifications are also issued.

(i) The minimum pension admissible may be sanctioned on the basis of collateral evidence even where service books are not available and where no records are available to verify the service particulars.

(ii) Pension can be sanctioned even in cases where the incumbents had "resigned" since they could not have forenoon the institution of Pension Scheme at the time they resigned.

(iii) In the case of invalidation on Medical grounds pension can be sanctioned even in cases where the procedure prescribed in the Tamil Nadu Pension code had not been followed.

7. The authorities who case sanction pension with reference to these orders will be the same as those sanctioning pension to the respective categories who retired after the crucial dates.

8. The expenditure will be debited to the relevant heads of account to which the expenditure on retirement benefits to the particular kind of non - Government educational Institution is debited.

// True Copy //

(Ramdas)

Commissioner & Secretary to Government"

4. Lateron, the Government have passed G.O.Ms.No.37, Education Science and Technology Department, dated 05.01.1983, for grant of pension to the Teaching staff of aided colleges who had resigned before 05.06.1981. G.O.Ms.No.37, Education Science and Technology Department, dated 05.01.1983 reads as under:-

ABSTRACT

Pension to Staff Non-Government Educational Institutions Teaching Staff of Aided and Local Body Schools and teaching staff of aided Colleges who resigned before the relevant crucial dates - Eligibility for Pension from 5-6-81 clarificatory orders issued.

DEPARTMENT OF EDUCATION SCIENCE AND TECHNOLOGY
G.O.Ms.No.37
5.1.1983

Dated:

ORDER:

The crucial dates from which the pension scheme for staff of non government educational institutions was introduced for various categories of staff in non - govt. educational institutions and the dates from which those who retired before the crucial dates were allowed pension are as follows.

		Date from which pension scheme was introduced	Educational G.O.Ms. No. Date	Those who retired before crucial dates allowed pension from	Edu. G.O. No. & Date
(I)	a) Teaching Staff of Aided and Local body (Aided for purpose of retirement benefits always includes recognized "on aided" Schools also Including Anglo Indian Schools)	1-4-65 1.11.58 to 1.1.62 Before 1.11.56	1109 ----- 31.5.58 853 ----- 16.4.62	1.3.68 1.3.68 1.5.77	1505 ----- 24.9.68 1505 ----- 24.4.68 1394 ----- 76-77
(i)	Non-teaching staff of Aided Schools	1.4.72	627/11-5-72	5.6.81	1015 ----- -- 5.6.81
(ii)	(a) Aided Colleges Teaching Staff	1.4.62	1671 ----- 16.7.63	1.03.68	1505 ----- 24.09.68
	(b) Aided Colleges - Non Teaching Staff	1.4.76	2213 ----- 11.10.76	5.6.81	1015 ----- 5.6.81
(iv)	(a) Aided Technical Education Institutions Teaching Staff	1.1.75	650 ----- 23.4.75	5.6.81	1015 ----- 5.6.81

		Date from which pension scheme was introduced	Education G.O.Ms. No. Date	Those who retired before crucial dates allowed pension from	Edu. G.O. No. & Date
	(b) Aided Technical Educational Institutions Non-Teaching Staff	1.4.77	74 ----- 12.1.78	5.6.81	1015 ----- 5.6.81
(v)	Regional Engineering College Tiruchirappali (all Staff)	1.1.75	1777/31 -7-77	5.6.81	1015 ----- 5.6.81

2. Many beneficiaries under G.O.Ms.No.1505 dt 24.9.68 would have found it difficult to produce service particulars to claim pension. It is likely that in some cases service registers might have been either lost or misplaced. In very many cases it would be even difficult to check the service details and then calculate pension eligibility due to sheer lapse of time. To obviate hardship and difficulties the authorities sanctioning pension were in Govt. memo No.21344/E6/68-5, Education, dt. 18/11.1968) authorised to sanction the minimum pension in all such cases where Teachers Service registers are not available or it is difficult to verify service particulars of the applicant.

3. When authorising sanction of pension from 1.3.68 (under G.O.Ms.No.1505/24-9-68) to Arumariammal who served as teacher non - Government schools from 1912 to 1928 in G.O.Ms.No.1196 Education, dt. 15.7.75, the Government enunciated the following general principal regarding admissibility of pension to Persons who had resigned before the relevant crucial dates:-

"At the time the teacher "resigned" from service no one could have foreseen the institution by the Government of any pension scheme for teachers in non-Government service and it did not matter then whether one "resigned" from service or "left" service or got one-self discharged as

certificate, It is considered hard to deny pension in such cases even though such teachers may technically be said to have "resigned". It is in this spirit that instructions were issued in Memo.No.21344/E6/685 Education, dt.18.11.1968 allowing the sanction of minimum pension even in cases where records like "Teachers" service Registers are not available of where it is difficult to verify the service particulars of Teachers".

4. Even in cases of "resignation" after the crucial dates, the Government have in a number of hard cases of particular individuals, relaxed the stipulations and allowed retirement benefits to "resigned" teachers also.

5. When Pension was sanctioned from 5.6.81 to non - teaching staff etc., who had retired before the crucial dates, the following specific orders were issued.

(i) The minimum pension admissible may be sanctioned on the basis of collateral evidence even where service books are not available and where no records are available to verify the service particulars.

(ii) Pension can be sanctioned even in cases where the incumbents had "resigned" since they could not have foreseen the institution of pension scheme at the time they "resigned".

(emphasis

supplied)

(iii) In the case of Invalidation of Medical grounds Pension can be sanctioned even in cases where the procedure prescribed in the Tamilnadu Pension code had not been followed (G.O.1483, Edn./27.8.73).

6. As regards those who retired before the crucial dates, In the case of non-teaching staff etc, who were given Pension benefits in para 6 of the G.O.No. 1015/5.6.1981 permitting the allowing of pension to 'Resigned' persons also; but there are no such general instructions permitting the allowing of pension to "Resigned" teachers (who were given pension benefits from 1.3.68 as per G.O.Ms.No. 1505/dt.24.9.1968). Orders are however being issued in individual cases of such teachers who had "resigned" before the crucial dates. In this context, the Accountant General has asked for a clarification on the following two points:-

(i) Whether it is the intention of the Government to allow pension to all the teaching staff of Aided and Local Body Schools and Teaching Staff of Aided College who had "Resigned" from service prior to the respective crucial date/dates

of the respective Government Order introducing pensionary benefits?

(ii) and if so, whether they are eligible to draw pension from 1.3.1968 with reference to Government Order Ms.No. 1505, Edn., dated 24.9.1968 read with Government Memo.No. 21344/E.8768-5, Edn., dated 18.11.1968.

7. The Government now clarify point (i) above in the affirmative i.e., the staff in question may be sanctioned pension by the respective authorities competent to sanction pension (without the need for any specific orders of any higher authority or of Government condoning the "resignation" in each individual case)

8. However, as regards point (ii) above, the Government direct that the persons benefited with reference to the above clarification need be allowed pension only from 5.6.81 and that no arrears need be allowed for period prior to 5.6.81.

9. This order issued with the concurrence of the Finance Department vide its U.O.No.144586/Pen 82-1, dt.10/14.12.82.

(By order of the Governor)

(Sd/- C.Ramdas)

Commissioner and Secretary to Government.

5. In the case of one Thiru.Vadapuri Chettiar who resigned after the crucial date, Government have issued Letter No.Ms.1490, Education, dated 26.12.1985, and the same reads as under:-

"Government of Tamil Nadu
Education Department

Copy of Letter No.Ms.1490, Education Dated
26.12.85.

From

Thiru. T.D.Sundar Raj, I.A.S.,
Commissioner & Secretary to Government,

To

The Director of School Education, Madras 6(WE)
The Director of Collegiate Education, Madras 6.
The Director of Technical Education, Madras-25.

The Examiner of Local fund Accounts, Madras 2.
The Director of Municipal Administration, Madras 2.

Copy to: Finance Department, Madras-9

Education B,C,D,E,F,G,M,R&U Sections.

Sir,

Sub: PENSION SCHEME FOR STAFF ON NON-GOVERNMENT EDUCATIONAL INSTITUTIONS, Those who have "resigned" after the crucial dates - Pension not to be sanctioned hereafter under the scheme - Instructions - Issued.

Ref: 1. G.O.Ms.No.1015, Education Dt.5.6.81.
2. G.O.Ms.No.37, Education dt.5.1.83.
3. Letter Ms.No.1397 Education dt. 29.11.1985
4. From the Director of School Education Lr. 467788/Pen/I3/83, Dt. 17.12.83.

According to the Orders in para7 of G.O.Ms.No.37 Education, Dt.5.1.83 Staff of Non-Government Educational Institutions who retired before the various crucial dates mentioned under column (2) under para:1 of that order may be sanctioned pension under PENSION SCHEME FOR STAFF OF NON-GOVERNMENT EDUCATIONAL INSTITUTIONS EVEN IN CASES where they had resigned from service PRIOR TO the respective crucial dates.

2. The orders mentioned in para 1 above will stand but the Government have now decided to issue certain further clarification in respect of those who retired ON OR AFTER the various crucial dates and accordingly the following instructions are issued.

3. The Government have decided that hereafter (i.e. from the date of this letter) Pension will not be sanctioned under the PENSION SCHEME FOR STAFF OF NON-GOVERNMENT EDUCATIONAL INSTITUTIONS to any staff of those institutions who have resigned ON OR AFTER the crucial date (meaning the crucial dates mentioned in para 1 above). The Heads of Departments concerned, (Director of School Education etc.) are requested, not to send any proposals to Government for sanction of pension under the said scheme, in/respect of staff of non-Government educational institutions who have resigned on or after the crucial dates.

4. The proposals sent in the letter, dt.17.12.83 of the Director of School Education are in respect of one Thiru.N.Vadapuri Chettiar who resigned after the crucial date and as such no

received from the Director of School Education are returned to him.

5. This letter issues with the concurrence of Finance Department vide its U.O.No.98332/Pen/85-1 dt.30.09.1985.

Yours Faithfully.
For commissioner & Secretary to Govt.,"

6. A perusal of the above mentioned Government Order Ms.No.1490, Education, dated 26.12.1985, would show that persons who resigned or retired, prior to 05.06.1981, would be given pensionary benefits, because they could not have anticipated pensionary benefits. The letter dated 26.12.1985 makes it clear that those persons, who have resigned, after the crucial date that is 05.06.1981, will not be allowed any pensionary benefits.

7. The writ petitioner/first respondent herein, has approached the third appellant herein, for grant of pensionary benefits and that the same was rejected by an order dated 07.01.2005. The rejection letter reads as under:-

"Higher Education (c) Department.
Lr.No.28765/C1/2004-2, Dt. 7-1-2005

From.
Thiru.K.Gananthasekan I.A.S
Under Secretary.
To
Thiru.C.Kumar,
Privee Lecture/ECE.
Annamalai Polytechnic College, Chettinad.
No.1222 A Kampam I.T.I Opposite,
Vellore Road,
Thiruvananthapuram - 606 604.
Sir,

Sub: Directorate of Technical Education-Aided
Polytechnic College - Annamalai
Polytechnic College, Chettinad -
Thiru.C.Kumar, Previous Lecturer (Relieve
Pension/F.P - Reg.

Ref: 1.G.O.(Ms) No.650 - Higher Education
Date 1.1.75

2.G.O.(Ms) No.1015 - Higher Education
Date 5.6.31

3. Your Letter Dt.4.8.99 & 20.03.2004

4. High Court - Chennai -
W.P.No.33403/2004 Date 19.11.2004 As per
G.O.No.650 / Edn/Dept dt
23.04.75 ordered.

The teaching staff retiring from Aided
Technical Educational institutions on or after the
1st January 1975 shall be allowed pension. The
teaching and Non teaching staff working in aided
Technical Education who resigned before 1.1.75

without having foreseen the G.O.Ms.No.650/Edn/Dept introducing a pension scheme for them the Govt came up pensionary benefits not only the retired but also have resigned (G.O.Ms.No.1015/Edn/Dept dt 05.06.1981)

You had resigned the post of Lecturer held in the Annamalai Polytechnic after introducing the above said Go.s (i.e) you had resigned on 07.07.1984. Moreover you have stated in your resignation letter that I had known all the future reactions towards his resignation as per rules (pension) Due to conquer the post as principal in the kovilpatti, Lakshmiammal polytechnic you were resigned the post of lecturer in the Annamalai Polytechnic. Hence your statement mentioned in your application as "Rules and orders are not known by me at the time of resignation" is not acceptable arguments. Those who resign a service means entails forfeiture of past service.

Hence your request of pension in application dated 4.8.99 and 20.3.2004 is hereby rejected. It is for your information.

Yours Truly

For Government Secretary"

8. This rejection has been challenged in the writ petition namely W.P.No.3869 of 2005.

9. A learned Single Judge by the impugned order before us, allowed the writ petition, holding that the benefit of G.O.Ms.No.1015, Education Department, dated 05.06.1981 must be extended to the writ petitioner. Pensionary benefits were directed to be extended to the petitioner. This order has been challenged by the State in the instant writ appeal.

10. Heard the learned counsel for the parties.

11. The admitted facts are as under:-

The writ petitioner/first respondent herein, resigned on 07.07.1984, that is after 05.06.1981. The issue is, as to whether G.O.1015, dated 05.06.1981, could be extended to the writ petitioner who resigned on 07.07.1984, after introduction of the scheme. The Government by Letter No.Ms.1490, dated 26.12.1985, have categorically stated that persons who resign, after the crucial date that is 05.06.1981, will not be entitled to the benefit of pension. This letter is in consonance with G.O.Ms.No.37, Education Department, dated 05.01.1983, which clarifies that the person who had resigned, prior to the crucial dates mentioned in Column No.3 of G.O.Ms.No.37, would be entitled to pensionary benefits.

12. Learned counsel for the first respondent, has placed reliance on number of judgments, viz.,

(i) In Government of Tamil Nadu rep. by the Secretary, Department of Education, Chennai vs. S.V.Paul Jeyaraj, reported in 2001-Writ L.R.852: A perusal of the facts of the case would show that the writ petitioner had resigned on 01.04.1955, i.e., much before 05.06.1981. This Court allowed the writ petition, on the ground that provision has to be interpreted as giving concessions even to the persons who have resigned earlier to the institution of the said Pension Scheme. The facts of the case is entirely different. Said judgment is not applicable to the facts of the case on hand. The facts of the reported case, therefore cannot become an authority or the proposition that, if a teacher had resigned even after 05.06.1981, he would still be entitled to the pensionary benefits.

(ii) The District Elementary Education Officer, Madurai vs. S.Ayyavoo, in W.A.(MD)No.311 of 2015: In this case also the respondent in the appeal resigned on 21.10.1964, i.e., before 05.06.1981 and therefore this case also cannot be an authority or the proposition that the persons who have resigned after 1981, would be entitled to get pensionary benefits.

(iii) Alice R.T.Solomon (deceased) and others vs. The Commissioner and Secretary, Chennai and others reported in CDJ 2010 MHC 362: In this case also the teacher concerned resigned on 18.06.1973 i.e., before the crucial dates. This case also cannot be taken as an authority or the proposition that a person who had resigned before 05.06.1981, would also be entitled to pensionary benefits.

(iv) In Tmt.A.Ammi vs. State of Tamil Nadu in W.P.No.8793 of 1999: In this case also the teacher resigned in the year 1971 i.e., before 05.06.1981.

(v) In R.Nandakumar vs. The Commissioner and Director of Technical Education, Government of Tamil Nadu, Chennai in W.P.No.21919 of 2010: The petitioner in this case resigned on 13.09.1975, which is prior to 05.06.1981 and it cannot be taken as an authority or the proposition, when the person has resigned before 05.06.1981.

(vi) In D.Padmini vs. The Registrar General, High Court, Madras in W.P.No.44724 of 2002, dated 29.01.2008: In this case though the petitioner resigned on 25.04.1988; the question dealt with was regarding forfeiture of pension under Rule 23 of the Tamil Nadu Pension Rules. This case did not deal with the effect of G.O.Ms.No.37, Education Science and Technology Department, dated 05.01.1983 and therefore it is not applicable to the facts of the present case.

(vii) In Government of Tamilnadu, rep. by its Principal Secretary, School Education Department, Chennai vs. V.Gopalasamy, in W.A.(MD)No.831 of 2015, dated 23.07.2015: In this appeal once again the teacher resigned on 04.12.1974, i.e., before 05.06.1981 and therefore it is not applicable to the case on hand.

(viii) In Tmt.M.K.Sivakami vs. The Hon'ble Principal District Judge, City Civil Court, Chennai in W.P.No.30277 of 2016, dated 04.04.2017: In this case again even though the petitioner resigned on 01.09.2014, the arguments were on the applicability of Rule 23 of the Tamil Nadu Pension Rules, 1978 and not on G.O.Ms.No.37, Education Science and Technology Department, dated 05.01.1983.

(ix) In K.R.Kumarasamy vs. The Accountant General, (Accounts and Entitlement), Chennai, in W.P.No.26540 of 2011, dated 11.04.2018: This case also deals with the effect of Rule 23 of the Tamil Nadu Pension Rules, 1978, forfeiture of services on resignation.

13. A cursory look at the abovesaid judgments would show that none of the judgments would apply to the facts of the present case. G.O.Ms.No.1015, Education Department, dated 05.06.1981, makes it clear that pension can be sanctioned only in cases, where the incumbents has resigned prior to the crucial dates 05.06.1981, for the reason that they could not have foreseen the institution of pension scheme, at the time when they resigned. G.O.Ms.No.37, Education Science and Technology Department, dated 05.01.1983, clarifies that persons who had resigned prior to 05.06.1981 alone and other crucial dates pertaining to teaching staffs in various institutions, are entitled to pensionary benefits and that too only from the date of 05.06.1981 meaning thereby that they would not be entitled for any amount prior to 05.06.1981.

14. The writ petitioner/first respondent herein, who resigned on 07.07.1984 that is much after 05.06.1981 and who knew about G.O.Ms.No.1015, Education Department, dated 05.06.1981 and G.O.Ms.No.37, Education Science and Technology Department, dated 05.01.1983, is not entitled to pension. It should be deemed that he resigned on 07.07.1984, knowing fully well all the consequences of resignation. The judgments relied on by the respondent cannot be made applicable, because of the specific provision in the Government orders extracted supra.

15. The writ petitioner/first respondent herein, has not pleaded that his letter of resignation may be treated as one for voluntary retirement. In the absence of such pleading, the request of the first respondent to treat his

resignation as one of voluntary retirement cannot be considered. The first respondent had resigned after the crucial date. He would not be entitled to any benefits, as stipulated in G.O.Ms.No.37, Education Science and Technology Department, dated 05.01.1983.

16. In the result, writ appeal is allowed. No Costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dm/pkn

TO,

1.The State of Tamil Nadu
rep. by the Secretary to the Government,
Education Department, Secretariat,
St. George Fort,
Chennai - 600 009.

2.The Director of Technical Education,
Directorate, Guindy,
Chennai.

+1 cc to Government Pleader Sr.No. 54523

W.A.No.2590 of 2018
and

CMP No.21076 of 2018

A.SK(06/08/2019)

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