



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.20477 of 2019

and

W.M.P. (MD) Nos.17101 & 17012 of 2019

S.Selvamani

... Petitioner

-Vs-

- 1.The State of Tamil Nadu
Represented by its Secretary
Department of School Education
Fort.St.George, Chennai 600 006
- 2.The Accountant General
Office of the Accountant General
261, Annasalai, Chennai 600 018
- 3.The Director of School Education
College Road, Chennai 600 009
- 4.The Chief Educational Officer
Madurai, Madurai District.
- 5.The District Educational Officer
Melur 625 106, Madurai District.
- 6.The District Treasury Officer
Pay & Accounts Office at Madurai
Madurai District 625 001
- 7.The Correspondent
LPN Girls Special Higher Secondary School
Ratchanyapuram
K.Pudur 625 007
Madurai District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari Mandamus, calling for the records relating to the impugned proceedings issued by the 5th respondent District Educational Officer in Na.Ka.No.2840/A1/2019 dated 09.09.2019 and quash the same.



For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Isaac Chambers
For R1,R3 to R6 : Mr.A.Thiagarajan
Government Advocate
For R2 : Mr.P.Gunasekaran

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ORDER

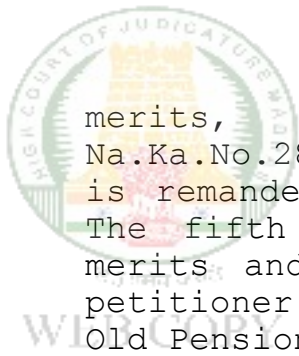
This Writ Petition has been filed challenging the order of the 5th respondent, the District Educational Officer, in Na.Ka.No.2840/A1/2019, dated 09.09.2019, to place the petitioner in the new pension scheme.

2.The petitioner was appointed as BT Assistant in the seventh respondent School. She was assigned with Teachers Provident Fund (TPF) Account No.338420. The respondents are deducting amount from her Teachers Provident Fund every month as her contribution. The petitioner was treated under Old Pension Scheme prevailing at that point of time. Later, in the year 2004, the first respondent has issued G.O.Ms.No.430, dated 06.08.2004, implementing New Contributory Pension Scheme to candidates recruited on or after 01.04.2003. The petitioner was continued under the Old Pension Scheme all along and the respondents are deducting her salary towards Old Pension Scheme. While being so, the fifth respondent issued impugned proceedings in Na.Ka.No.2840/A1/2019, dated 09.09.2019 stating that as per G.O.Ms.No.430, Finance (Pension) Department, dated 06.08.2004, any appointment made after 01.04.2003 has to be placed under New Pension Scheme, namely, ' Contributory Pension Scheme' and the petitioner's appointment is on 17.04.2003. The petitioner cannot be placed under Old Pension Scheme and the fourth respondent directed to place the petitioner in the Contributory Pension Scheme and submitted the salary bill for the month of September-2019, after deducting the amount towards the Contributory Pension Scheme.

3.The learned counsel for the petitioner submitted that the petitioner was already under Old Pension Scheme and the acts of the fourth respondent to place the petitioner under New Contributory Pension Scheme after a lapse of 17 long years, without issuing notice to the petitioner, is highly arbitrary.

4.Heard Mr.K.Ragatheesh Kumar, learned counsel appearing for the petitioner, Mr.A.Thiagarajan, learned Government Advocate appearing for the respondents 1, 3 to 6 and Mr.P.Gunasekaran, learned counsel appearing for the second respondent.

5.Considering the abovesaid submission of the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1, 3 to 6 and the learned counsel appearing for the second respondent, without deciding the issue on



merits, the impugned order passed by the fifth respondent in Na.Ka.No.2840/A1/2019, dated 09.09.2019, is set aside and the matter is remanded back to the fifth respondent for fresh consideration. The fifth respondent is directed to pass appropriate orders on merits and in accordance with law, after issuing notice to the petitioner. Till such time, the deduction shall be made based on the Old Pension Scheme under Teachers Provident Fund.

6.With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar

To

1.The Secretary, State of Tamil Nadu
Department of School Education
Fort.St.George, Chennai 600 006.

2.The Accountant General
Office of the Accountant General
261, Annasalai, Chennai 600 018.

3.The Director of School Education
College Road, Chennai 600 009.

4.The Chief Educational Officer
Madurai, Madurai District.

5.The District Educational Officer
Melur 625 106, Madurai District.

6.The District Treasury Officer
Pay & Accounts Office at Madurai
Madurai District 625 001.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-89095[F] dated 25/09/2019

+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-89292[F] dated 25/09/2019

+1 CC to M/s.GP (SR-89370[F] dated 25/09/2019

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MSA

MS/04.10.2019/3P.10C

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