

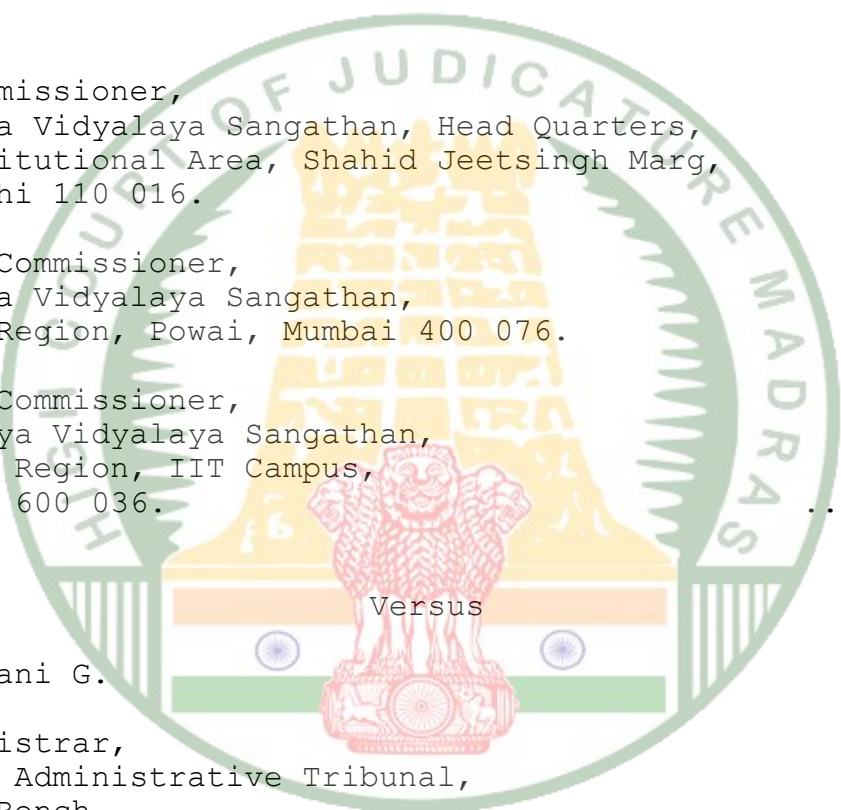
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.18679/2020
and W.M.P.No.23094/2020

- 
1. The Commissioner,
Kendriya Vidyalaya Sangathan, Head Quarters,
18 Institutional Area, Shahid Jeetsingh Marg,
New Delhi 110 016.
2. Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
Mumbai Region, Powai, Mumbai 400 076.
3. Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
Chennai Region, IIT Campus,
Chennai 600 036. ...Petitioners
- Versus
1. Smt.Ramani G.
2. The Registrar,
Central Administrative Tribunal,
Madras Bench,
City Civil Court Buildings, Chennai 104. ..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records of the 2nd respondent (Central Administrative Tribunal, Madras Bench) culminating in the impugned order dated 02.04.2019 in O.A.No.683/2018 and quash the same.

For Petitioner : Mr.M.Vaidyanathan
For RR 1 : Mr.Arumugam

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J. through video conferencing]

The official respondents in O.A.No.683 of 2018, are the writ petitioners.

2. The respondent and other employees had filed O.A.Nos.1282, 422, 925 & 683 of 2018, praying for quashment of the impugned proceedings of the 1st petitioner dated 11.04.2018, with a consequential direction that they deemed to have come under the GPF (Pension Scheme), in terms of the policy of the petitioner dated 01.09.1988, with effect from 01.02.1989 and consequently extend the benefits of GPF(Pension) Scheme to them. The Tribunal, vide common order dated 02.04.2019, has taken note of the order dated 24.02.2017, passed in W.P.No.19215 of 2015 and in compliance of the said order, has disposed of the same with the following direction:

'6. On perusal, it is seen that the order of the Hon'ble Madras High Court in W.P.No.19215 of 2015 dated 24.02.2017 had been complied with by the resolutions by issuing an order dated 27/31.07.2018 wherein it is also stated that the conversion to GPF/Pension scheme of the petitioner therein was subject to the outcome of SLP Diary No.10965/2018 filed by the respondents in the Hon'ble Supreme Court. As the matter is before the Hon'ble Supreme Court, I am of the view that these Oas could be disposed of with a direction to the respondents to review their decision in the case of the applicants herein in the event of the Hon'ble Apex Court upholding the order of the Madras High Court in W.P.No.19215 of 2015 dated 24.02.2017 in the said SLP within a period of two months thereafter.'

and challenging the legality of the said order, the present Writ Petition is filed.

3. It is fairly brought to the knowledge of this Court by the learned counsel appearing for the 1st respondent that W.P.No.17165/2020, filed against the very same order in O.A.No.422/2018, came to be dismissed on 07.12.2020.

4. Mr.M.Vaidyanathan, learned counsel appearing for the petitioners has drawn the attention of this Court to the relieving order of the 1st respondent dated 31.07.2013, as well as representation dated 31.07.2013 and would submit that in view of the communication dated 31.07.2013, the respondent requested not to settle her CPF amount, as she is expecting a favourable

decision from KVS head quarters, on her representation dated 02.04.2013 and having waited for nearly four years, gave a representation dated 15.12.2017, for grant of GPS (Pension) benefits and since the 1st respondent is guilty of delay and laches, she ought not to have been granted relief by the Tribunal, vide impugned order and prays for appropriate orders.

5. Per contra, Mr.Arumugam, learned counsel accepts notice on behalf of the 1st respondent and would submit that in the light of dismissal of W.P.No.17165 of 2020 dated 07.12.2020, which also arise out of the very same common order, the present Writ Petition also deserves dismissal and prays for dismissal of the same with exemplary costs.

6. The respondent has filed O.A.No.683/2018, on the file of the Central Administrative Tribunal, Madras Bench, by contending among other things that in the light of paragraph no.3.2 of the Office Memorandum dated 01.09.1988 of Kendriya Vidyalaya Sangathan, the employees concerned has to exercise option to continue under CPF scheme by 31.01.1989, in duplicate and if no option is received by 28.02.1989, the employee will be deemed to have come over the pension scheme. It is the further submission of the learned counsel appearing for the respondents that the 1st respondent did not exercise her option to continue under CPF scheme and in this regard a representation has also been submitted as early as in the year 1999 and in the light of paragraph no.3.2 of the Office Memorandum, coupled with the facts and circumstances, the 1st respondent cannot be held to be guilty of delay and laches.

7. This Court has carefully considered the rival submissions and also perused the materials placed before it.

8. It is relevant to extract paragraph no.3.2 of the Office Memorandum of Kendriya Vidyalaya Sangathan, in F.No.152-1/79-80/KVS/Budget/Part.II, dated 01.09.1988:

'3.2 The employees of the category mentioned above will, however, have an option to continue under the CPF scheme, if they so desire. The option will have to be exercised and conveyed to the concerned Head of Office/Principal by 31.01.1989, in duplicate, in the form enclosed (one form may be sent to this office while the other kept with personal records of the employee concerned) if the employees wish to continue under the CPF scheme. If no option is received by the Head of Office/Principal by the above date and in this office through them by 28.02.1989, the employees will be deemed to have come over to the Pension Scheme. The Head of Office/Principal are to forward in one lot options exercised by employees for retention of CPF Scheme received by them, to reach Sangathan's office

latest by 28.02.1989. Where no option to continue under the CPF Scheme is received by them from any, a nil report be sent by due date viz., 28.02.1989.''

9. Admittedly, the 1st respondent did not exercise her option in term of paragraph no.3.2 and in that event, she was deemed to have come over to GPS scheme. The applicant/respondent in paragraph no.4.4 of the original application also stated that she had made further representations dated 16.04.1996, 17.08.2000, 16.08.2004, 12.07.2007, 14.02.2010, 01.11.2012, 02.04.2013, 17.03.2015 respectively, for which no reply has been made. The petitioners herein except to make a fair denial, did not seriously dispute the submission of the said representations.

9. The primordial submission made by the learned counsel appearing for the petitioners is that the 1st respondent is guilty of delay and laches, rather waiting on the side line, received the order and she ought not to have been granted relief by the Tribunal.

10. In the considered opinion of this Court, the said submission lacks merits and substance, for the reason that the respondent right from the year 1999, had submitted repeated representations, pointing out non exercise of option under GPF Scheme. In the light of paragraph no.3.2 of the Office Memorandum of the Kendriya Vidyalaya Sangathan dated 01.09.1988 and even otherwise that once an option is not exercised, she is deemed to have come over CPS scheme. The Tribunal, in the impugned order, has also noted that challenges made to the similar orders, this Court in W.P.No.19215/2015 and 16467 of 2017, vide order dated 24.02.2017 and 23.08.2018, has directed the petitioners / official respondents to convert the petitioner therein as pensioners under the GPF scheme.

11. As rightly pointed out by the learned counsel appearing for the respondents that in respect of one of the applicants in common order namely R.Amudha, is concerned, in O.A.No.422/2015, challenge made by the petitioner herein in W.P.No.17165/2020, has also ended in dismissal on 07.12.2020.

12. In the light of the aforesaid facts and circumstances, this Court, is of the considered view that there is no merit in this Writ Petition.

13. In the result, the Writ Petition is dismissed, confirming the order dated 02.04.2019 in O.A.No.683/2018 and the petitioners are granted six months time from the date of receipt of a copy of this order / uploading of the order in the website, to comply with the directions issued by the Tribunal, in the impugned order, as confirmed in this Writ Petition. No costs.

Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sk

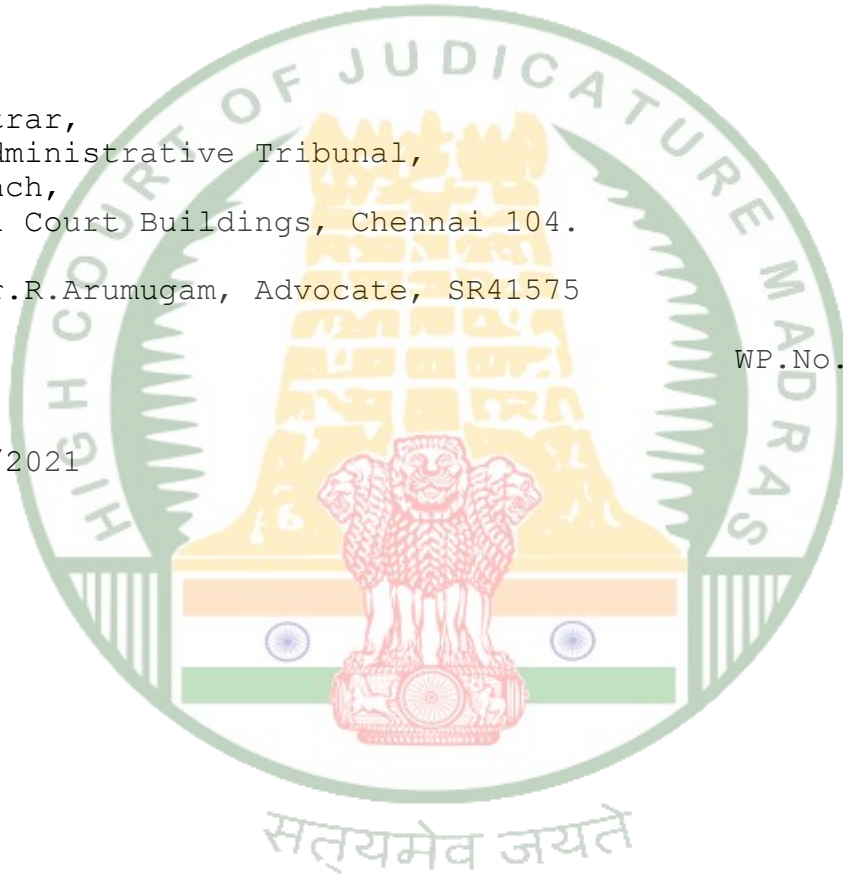
To

The Registrar,
Central Administrative Tribunal,
Madras Bench,
City Civil Court Buildings, Chennai 104.

+1cc to Mr.R.Arumugam, Advocate, SR41575

WP.No.18679/2020

CO(RSI)
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