



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition (MD)No.17699 of 2020

WEB COPY

A.Vanitha

... Petitioner

Vs.

1.The State of Tamil Nadu
represented by the Secretary to Government,
School Education Department,
Secretariat,
Chennai.

2.The Accountant General,
DMS,
Nandanam,
Chennai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the first respondent to enroll the petitioner in General Provident Fund Scheme, by considering the petitioner's representation, dated 15.09.2020, within the time stipulated by this Court.

For Petitioner	:	Mr.S.Louis
For R1	:	Mr.M.Jeyakumar Additional Government Pleader
For R2	:	Mr.R.Saravanakumar

O R D E R

By consent, the writ petition is taken up for final disposal.

2. This writ petition has been filed for a direction to the first respondent to enroll the petitioner in General Provident Fund Scheme, by considering the petitioner's representation, dated 15.09.2020.

3. The case of the petitioner is that she has applied for the post of Block Resource Teacher, in pursuance to the Notification issued by the Teachers Recruitment Board (TRB), dated 09.02.2002. The written examination was held on 21.04.2002 and the result was published on 20.05.2002 and the petitioner was also selected. The first batch was appointed on 11.07.2002, the second batch was appointed on 17.03.2003 and the third batch was appointed on 29.05.2003. The petitioner's name was included in the third batch and she joined duty as the Block Resource Teacher at the Block Resource Centre, Kadaladi Block, Ramanathapuram District on 09.12.2003. Due to the Contributory Pension Scheme came into force



on 01.04.2003, the respondents included the petitioner's name in the Contributory Pension Scheme. Hence, she made a representation to the respondents requesting them to enroll her in the General Provident Fund Scheme on par with the other batch of candidates.

4. The main contention of the learned counsel for the petitioner is that the failure to issue the appointment order in time is not a fault of the petitioner and it is for the administrative reasons. Therefore, the petitioner's right should not be deprived. Further, the petitioner has made a representation to the respondents on 15.09.2020. But they have not taken any steps to dispose of the petitioner's representation. Hence, the petitioner has approached this Court by filing this writ petition.

5. The learned Additional Government Pleader appearing for the first respondent submitted that since the petitioner has given a representation to the respondents to enroll her in the General Provident Fund Scheme on par with the other batch of candidates, it is a policy decision of the Government and the Government will take a decision since the power of granting relaxation, it is up to the Government to take a decision.

6. Heard the learned counsel for the petitioner, learned Additional Government Pleader appearing for the first respondent, the learned counsel appearing for the second respondent and perused the materials available on record.

7. In similar matters, the Government has taken a decision to grant relaxation by way of issuance of Notification. The Central Government has also recently issued the Office Memorandum dated 17.02.2020, and thereby providing one time option to permit their employees to join in the Old Pension Scheme. In similar manner, the Government also may consider to provide one time option, so as to these type of cases like the petitioners, who had deprived of the appointment before the cut off date, when the other batch of persons, who have selected along with the petitioner were given appointment and permitted to select the Old Pension Scheme. Due to the administrative reasons, there was a delay in issuing the appointment orders, for which no one can be blamed. But, this Court is of the opinion that the benefit should not be deprived, due to the reason of delay in issuing the appointment orders, when the persons selected along with the petitioner were given similar benefits, due to the issuance of the appointment orders prior to the cut off date.

8. Taking into consideration of all these aspects, this Court directs the first respondent to dispose of the representation of the petitioner, dated 15.09.2020, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.



9. With the above direction, this Writ Petition is disposed of.
No costs.

WEB COPY

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

akv

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Secretary to Government,
State of Tamil Nadu,
School Education Department,
Secretariat,
Chennai.

2.The Accountant General,
DMS,
Nandanam,
Chennai.

+1 CC to M/s.S.LOUIS, Advocate (SR-24460[F] dated 08/12/2020)

+1 CC to M/s.GP (SR-24390[F] dated 08/12/2020)

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AP(30/12/2020) 3P 5C