



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. NO.25922 OF 2009 AND
MP.NOS.2 AND 3 OF 2009 AND
WMP.NO.19424 OF 2016 AND
WMP.NO.11259 OF 2019

- 1.S.Joseph Jeyasingh
- 2.K.Balamurali
- 3.J.Muthukumaran
- 4.S.Dhanasekaran
- 5.K.Ramesh
- 6.C.Palani
- 7.S.Sankar
- 8.S.Nesamani
- 9.K.Kamalakannan
- 10.S.Meena
- 11.P.Subramanian
- 12.J.Gangadaran
- 13.V.Vijayalakshmi
- 14.C.Sutha
- 15.K.Karuppusamy
- 16.B.Priya
- 17.N.Mohanraj
- 18.N.Shanthidevi
- 19.R.Padmavathi
- 20.E.Srinivasan
- 21.B.Anandhaboopathy
- 22.D.Jayaprakash
- 23.L.Narayanasamy
- 24.S.Sethuramalingam

...Petitioners

Vs

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of School Education,
Fort St. George, Chennai-600 009.



2.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai.

3.The Educational Officer,
Corporation of Chennai,
Rippon Building,
Chennai.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by 3rd Respondent order dated 03.11.2009 having reference No.Ka.Thu.Na.Ka.No.E3/E9/5142/09 and quash the same in so far as it relates to the inclusion of the names of the Petitioners in the list of the Teachers to be brought under the Contributory Pension Scheme and consequently direct the 3rd Respondent to retain the names of the Petitioners in the existing General Provident Fund and Pension Scheme.

For Petitioners : Mrs.Nalini Chidambaram, Senior Counsel
for M/s.C.Uma

For Respondents : Mr.C.Selvaraj (for R1)
Government Advocate

Mr.R.Gopinath (for R2 & R3)

O R D E R

The 17th petitioner in this writ petition, has, vide WMP.No.11259 of 2019, prayed that he be permitted to withdraw this writ petition. Acceding to the prayer, WMP.No.11259 of 2019 is ordered and WP.No.25922 of 2009 is closed as withdrawn as against the 17th petitioner alone. As far as the other writ petitioners are concerned, it is the common prayer of all the petitioners that they were appointed as Teachers in a Corporation School.

2.They had appeared for the qualifying examination for appointment as B.T.Assistants and Tamil Pandits in various schools administered by the Corporation of Chennai on 21.04.2002. All the petitioners were successful in the examinations and had been appointed to the posts to which they sought appointment on 09.06.2003.

3.Pending issue of orders of appointment, there was a change in policy of the Government of Tamilnadu and B.T. Assistants and Tamil Pandits, who had been selected in the recruitment examination were brought under the Contributory



Pension Scheme (CPS). It is the petitioners say that seeing as they had been successful in the examinations, their appointments ought not to have been delayed till June 2003.

4. The CPS which was issued under G.O.No.259 of 2003, contains various stipulations that, according to the petitioner are prejudicial to the interest of the petitioners. The present writ petition challenges order dated 03.11.2009, which relates to the inclusion of the names of the petitioners in the list of Teachers to be brought under the CPS. They seek a consequential direction to R3, who is the Educational Officer, Corporation of Chennai to retain the names of the petitioners in the existing General Provident Fund and Pension Scheme and not bring them under the CPS.

5. In the counter filed by R2, the Commissioner, Corporation of Chennai, the ground taken is that G.O.No.259 of 2003 had not been challenged by the petitioners. It is as per the G.O. that the names of the petitioners were sought to be shifted to the CPS scheme and since was not challenged, the petitioner's case has no merit. The date of the G.O. is 06.08.2003 and the petitioners would argue that by applying the said G.O. to their appointments dated 09.06.2003, the G.O. has in fact, been given retrospective effect, which is impermissible.

6. This ground finds place batch of writ petitions filed recently bearing Nos.9027 and 9035 of 2019 wherein the petitioners challenge G.O.No.259 of 2003. The batch has come to be dismissed on 10.06.2019 and SLP have been filed bearing Nos.17631 and 17632 of 2019 in which notice has been issued to the State.

7. In light of the narration as aforesaid, the course of action that appeals to me is to close the present writ petition, as its fate will be determined by the result of the Special Leave Petitions pending before the Hon'ble Supreme Court.

8. Hence, this writ petition is closed, granting liberty to the petitioners to revive the matter in the light of and subject to the judgment of the Hon'ble Supreme Court in the pending SLPs. No costs. Connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

VS



To

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of School Education,
Fort St. George, Chennai-600 009.

2.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai.

3.The Educational Officer,
Corporation of Chennai,
Rippon Building,
Chennai.

+1cc to M/s.C.Uma, Advocate SR.No.52272

+1cc to Mr.R.Gopinath, Advocate SR.No.51501

+1cc to the Government Pleader SR.No.52013

W.P. No.25922 of 2009 and
MP.Nos.2 and 3 of 2009 and
WMP.No.19424 of 2016 and
WMP.No.11259 of 2019

KK(CO)
RVM(10/11/2021)