IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.16562 of 2010

1.A.DHAMAYANTHI
73 G MUTHU VINAYAKAR KOIL STREET,
TIRUVANNAMALAI TOWN, ARANI,
TIRUVANNAMALAI DISTRICT ...PETITIONER

Vs.

1.THE COMMISSIONER
GOVERNMENT DATA CENTRE,
GUINDY, CHENNAI-25

2.THE ADDITIONAL ASSISTANT
ELEMENTARY EDUCATIONAL OFFICER
TIRUVANNAMALAI DISTRICT

3.THE HEAD MASTER
PANCHAYAT UNION MIDDLE SCHOOL ANDIPALAYAM
TIRUVANNAMALAI PANCHAYAT UNION
TIRUVANNAMALI DISTRICT ...RESPONDENTS

Prayer : Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records pertaining to letter bearing No.0734/B2/2010 dated 15.2.2010 of the first respondent herein and quash the same and further direct the first respondent to assign a new TPF Account number to the petitioner by transferring all the contributions made by the petitioner in ASTPF A/c No.337865 from 9.4.2003 till 16.7.2009 with all consequential benefits.

For Petitioner : Mr.Abdul Majeed

For Respondents : Mr.T.Arunkumar, A.G.P.

O R D E R

According to the petitioner, the petitioner was initially working as Assistant at Natesan Pillai Aided Primary School, Tiruvannamalai from 9.4.2003 to 16.7.2009 and thereafter, petitioner was appointed to the post of Secondary Grade Teacher on 30.6.2008 through District employment office. Pursuant to her appointment as Secondary Grade Teacher, she resigned her job on 16.7.2009 as Assistant in Natesan Pillai Aided Elementary School, Tiruvannamalai and joined as Secondary Grade Teacher in Panchayat Union Middle School, Aandipalayam, Tiruvannamalai Panchayat Union on 16.7.2009 without any break. While she was working as Assistant in Natesan Pillai Private Aided School, Provident Fund account was opened in her name and the same was duly approved by the Commissioner, Government Data Centre, Chennai 600 025. The petitioner was contributing the amounts regularly in the said account, viz., ASTPF A/c No.337865 which was assigned to the petitioner. After her appointment as Secondary Grade Teacher, she gave representation to the Additional Assistant Elementary Education Officer, the second respondent and requested him to open a new P.F. Account viz., Teachers Provident Fund (TPF) and further requested him to transfer the amount which is already lying in ASTPF A/c No.337865 of the petitioner to the new TPF account to be created for the petitioner. On 1.2.2010, the second respondent recommended for opening a new TPF account and transferring the amount already existing in ASTPF A/c No.337865 to the TPF account to be newly created for the petitioner. But the first respondent rejected the said request by stating that since the petitioner has joined after 1.4.2003, she is not entitled to join in the old Pension Scheme and she is eligible to be a member in existing contributing Pension Scheme and the said order is under challenge in the present writ petition.

2. According to the learned counsel appearing for the petitioner, the petitioner is not claiming Pension under old Pension Scheme and she is not disputed that she was appointed in the year 2009 and therefore, new Pension Scheme alone will be applicable to the petitioner.

3. The grievance of the petitioner is that the writ petitioner has already opened ASTPF A/c No.337865 while she was working as Assistant in Natesan Pillai Aided Primary School, Tiruvannamalai and she made contribution in the aforesaid account regularly. Now, she requested the respondents to transfer the amount which is already lying in ASTPF A/c No.337865 of the petitioner to the new TPF account to be created for the petitioner. Therefore, according to the learned counsel appearing for the petitioner, the request made by the petitioner was not properly considered by the respondents.

4. The learned Additional Government Pleader appearing for the respondents would submit that the request of the petitioner for transferring the amount which is already lying in ASTPF A/c No.337865 of the petitioner to the new TPF account to be created for the petitioner will be considered and new TPF account will be created for the petitioner.

5. In view of the fact that the petitioner is not claiming pension under old Pension Scheme and her only request is to transfer the amount which is already lying in ASTPF A/c No.337865 of the petitioner to the new TPF account to be created for the petitioner and the reason stated by the respondent is contrary to the request made by the petitioner, the impugned order is set aside. Consequently, the Commissioner, Government Data Centre, Guindy, Chennai, the first respondent herein is directed to pass order afresh in the light of the observation made hereinabove, as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of the order. No costs.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.THE COMMISSIONER,
GOVERNMENT DATA CENTRE,
GUINDY, CHENNAI-25

2.THE ADDITIONAL ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
TIRUVANNAMALAI DISTRICT.

3.THE HEAD MASTER,
PANCHAYAT UNION MIDDLE SCHOOL, ANDIPALAYAM,
TIRUVANNAMALAI PANCHAYAT UNION,
TIRUVANNAMALI DISTRICT.

+1cc to Government Pleader SR. No.62617

W.P.No.16562 of 2010

SS (CO)
PR (19/01/2022)