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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P. No.22919 of 2021
(Through Video Conferencing)

R.Subashini

...Petitioner

Vs

1. The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
3. The Chief Educational Officer,
Erode District, Erode.
4. The District Educational Officer,
Bhavani Educational District,
Bhavani, Erode District.
5. The Block Educational Officer,
Bhavani Block, Erode District.
6. The Principal Accountant General (A&E)
Tamil Nadu,
O/o.The Principal Accountant General,
361, Anna Salai, Teynampet,
Chennai - 600 018.
7. The Correspondent,
Sri Swamy Vivekananda Aided Elementary School,
Bhavani - 638 301,
Erode District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents 1 to 6 to consider the representation submitted by the petitioner dated 23.12.2020 and to pass orders to continue the petitioner under General Provide Fund/Teacher Provident Fund in TPF No.336795 in the post of Secondary Grade Teacher in the 7th respondent School, with all consequential benefits.



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For Petitioner : Mr.G.Sankaran

For Respondents: Mr.L.S.M.Hasan Fizal
Government Advocate for R1 to R5
Mr.V.Vijay Shankar for R6

ORDER

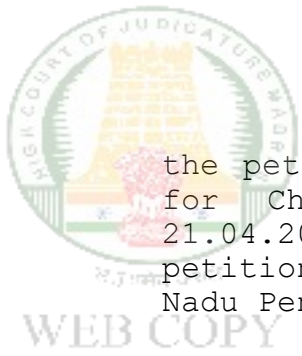
The petitioner was appointed as a Secondary Grade Teacher by the 7th respondent School by an appointment order dated 29.11.2002. It is the case of the petitioner that the petitioner reported to the duty with the 7th respondent on 02.12.2002. Thereafter, the 7th respondent has sent a representation to the 4th respondent to permit the petitioner to undergo the Child Psychology Training.

2.By an order dated 07.02.2003, the 4th respondent has permitted the petitioner to undergo Child Psychology Training Programme at Perambalur District. It is the further case of the petitioner that though the petitioner reported at the Child Psychology Training Centre at Perambalur District, but the petitioner was however not allowed to join stating that the petitioner was from Erode District.

3.Under these circumstances, the petitioner had approach the 7th respondent with a request to the 4th respondent to sent the petitioner for training in Child Psychology Training in Erode District. Pursuant to the aforesaid, the 4th respondent also issued another letter dated 08.04.2003 and permitted the petitioner to undergo Training in Child Psychology Training at Erode. After the petitioner had successfully completed the Training at Erode. The petitioner's appointment as a Secondary Grade Teacher with the 7th respondent was approved with effect from 01.06.2003 by which time the Tamil Nadu Pension Rules 1978 had been amended in terms of G.O.Ms.No.259 Finance and Pension Department, dated 06.08.2003.

4.Under these circumstances, the petitioner has sent a representation asking the respondents to continue the petitioner to be governed by the Tamil Nadu Pension Rules 1978 as it stood to the above amendment with effect from 01.04.2003.

5.Appearing on behalf of the petitioner, the learned counsel for the petitioner has submitted that the delay in approving the petitioner's appointment as a Secondary Grade Teacher was not on account of the petitioner but on account of the delay caused in allowing the petitioner to undergo training by the Child Psychology Training Centre at Perambalur and later by directing the petitioner to undergo the Training at Erode. It is further submitted that the delay was not account of the petitioner as



the petitioner was eventually sent for training at Erode Centre for Child Psychology Training by the 4th respondent on 21.04.2003. It is further submitted that therefore the petitioner is entitled to governed by the Provision of the Tamil Nadu Pension Rules.

6. Appearing on behalf of the respondent, the learned counsel for the respondents submits that the issue is no longer res integra and also relied on the decision of the Hon'ble Division Bench of this Court rendered in W.A.(MD).No.336 of 2018 dated 27.06.2018 wherein it was held that the writ petitioner/Appellant therein had completed the Course only on 21.12.2007 and therefore the relief sought for in the said writ petition cannot be granted to the petitioner therein.

7. The learned counsel for the respondent has also placed reliance on the decision of the learned Single Judge before the Madurai Bench of this Court in W.P.(MD).No.2356 of 2011 vide its order dated 08.02.2017.

8. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and perused the Provisions of the Tamil Nadu Pension Rules 1975 as it stood prior to 01.04.2003. The petitioner's representation deserves a fair consideration. Therefore, to that extent the writ petition deserves to be allowed at this stage. Though submissions of either parties have been recorded in this order. It is made clear no views are expressed on merits in this case.

9. The respondents are therefore directed to examine the same and come to a fair conclusion as to whether the petitioner would be entitled to governed by the Pension rules or by the Contributory Pension Scheme which was announced by the Government vide G.O.Ms.No.413, Finance (PGC) Department, dated 04.11.2010. This exercise shall be carried out by the 4th respondent or any other Competent Authority within a period of three months from the date of receipt of a copy of this order.

10. This Writ petition stands disposed with the above observations. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
State of Tamil Nadu
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Chennai - 600 009.
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6. The Principal Accountant General (A&E)
Tamil Nadu,
O/o.The Principal Accountant General,
361, Anna Salai, Teynampet,
Chennai - 600 018.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.56031

+1cc to the Government Pleader, S.R.No.56638

W.P. No.22919 of 2021

SPD(CO)
RGA(02/12/2021)