



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P (MD)No.9488 of 2012

and

W.M.P (MD)No.1479 of 2020

R.Kaliyaperumal

... Petitioner

Vs.

1. The Senior Accounts Officer,
Office of the P.R.Accountant General,
(Accounts & Entitlements),
361, Anna Salai,
Chennai - 600 018,
Tamil Nadu.

2. State of Tamil Nadu
represented by its
Secretary to Government,
Chennai.

3. The Finance Secretary,
Government of Tamil Nadu,
Fort St.Geroge, Chennai.

... Respondents

[Respondents 2 and 3 were impleaded vide order dated 10.06.2019 in WMP(MD)No.9684 of 2019]

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of certiorarified mandamus by calling for the records from the respondent in respect of the proceedings in FMI/V/TR/188015, dated 03.10.2011 quash the same and consequently directing the respondent to pass suitable orders regarding the allotment of GPF account number to the petitioner.

For Petitioner : Mr.V.Chandrasekar

Respondent No.1 : Mr.P.Gunasekaran
Standing Counsel

For Respondent : Mr.D.Muruganantham

Nos.2 & 3 Additional Government Pleader

Mr.A.Thirumurthy, for Petitioner

in WMP(MD)No.1479/2020

(Proposed Respondent)



ORDER

This writ petition is filed seeking to quash the proceedings of the 1st respondent in FMI/V/TR/188015, dated 03.10.2011 and consequently to direct the 1st respondent to pass suitable orders regarding the allotment of GPF account number to the petitioner.

2.The case of the petitioner is as follows:

(i) The petitioner was initially appointed as Assistant in the Tamil Nadu Judicial Ministerial Service and posted in the Principal District Munif Court, Kumbakonam as per the proceedings of the the Principal District Court, Thanjavur, vide No.5621/GR-IV/98-99, dated 13.07.2000 and he joined duty on 08.09.2000. Subsequently, he was allotted with permanent GPF account number as 32702/Judl and he was paying subscription towards that GPF account, however, he had not withdrawn any amount from his GPF account.

(ii) While so, he was sponsored by the Professional Executive Employment Office, Chennai for the post of Programme Assistant [Technical] in Agriculture University, Coimbatore and after going through the selection process, he was appointed in the said University as Programme Assistant [Technical] vide proceedings No.R1/3152/206, dated 31.05.2007. Accordingly, on his request, he was relived from the Judicial Ministerial Service by the Principal District Judge, Thanjavur vide order No.A76/2007/A1, dated 06.06.2007 with effect from 07.06.2004 AN. As such he joined in the Agriculture University, Coimbatore and was working there.

(iii) At this juncture, he was selected as Agriculture Instructor by the Teacher's Recruitment Board and appointed in Government Higher Secondary School at Elaiyurvariyanakaval in Ariyalur District [Earlier Perambalur District] and therefore, on 19.01.2009 the Agriculture University, Coimbatore relieved the petitioner from the post of Programme Assistant [Technical] and accordingly he joined in the said School as Agricultural Instructor on 22.01.2009. However, during his employment in the said University, no deduction was made towards his GPF account from his salary.

(iv) After entering into the School Education Department, the petitioner has made a representation to the 1st respondent on 26.03.2011 through proper channel requesting to permit him to continue the existing GPF account. However, his request came to be rejected by the 1st respondent and challenging the said rejection of this request to use the existing GPF account for the purpose of pension, this writ petition is filed.

3.The learned Counsel appearing for the petitioner submitted that as per G.O.Ms.No.441 Finance (Pension Department), dated

<https://hcservices.ecourts.gov.in/hcservices/>

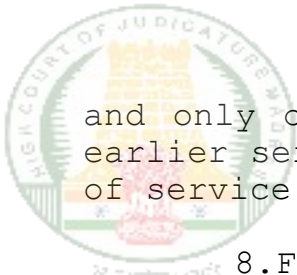
Government

4. The learned Standing Counsel appearing for the 1st respondent submitted that the petitioner has initially joined in the Judicial Ministerial Service and he was relieved from the said service on his resignation and after he joined in the Agriculture University, Coimbatore. Subsequently, he entered into the School Education Department after he was relieved from the Agriculture University, Coimbatore on his resignation. Therefore, the petitioner has resigned the earlier job and joined in the present post. Therefore, once he resigned the job, he foregoes all the benefits and as such he is not entitled to get any pension and he will fall under the category of Contributory Pension Scheme and not under the GPF and moreover, the Government Order referred to by the petitioner is not applicable to him, since he has migrated from University to Government Service to a School.

5. Heard the learned Counsel on either side and perused the materials placed on record.

6. Admittedly, the petitioner was initially appointed as Assistant in the Tamil Nadu Judicial Ministerial Service and he joined duty on 08.09.2000. He was also allotted with permanent GPF account number as 32702/Jud1 and he was paying subscription towards that GPF account. Subsequently, he joined duty in the Agriculture University, Coimbatore as Programme Assistant [Technical] vide proceedings No.R1/3152/206, dated 31.05.2007. It is to be noted that only on his request, he was relieved from the Judicial Ministerial Service by the Principal District Judge, Thanjavur vide proceedings order No.A76/2007/A1, dated 06.06.2007 with effect from 07.06.2004 AN. Further he was selected as Agriculture Instructor by the Teacher's Recruitment Board and appointed in Government Higher Secondary School at Elaiyurvariyanakaval in Ariyalur District [Earlier Perambalur District] and therefore, on 17.02.2009 the Agriculture University, Coimbatore relieved the petitioner from the post of Programme Assistant [Technical] on his resignation on 20.01.2009.

<https://hcservices.courts.mn.gov/hcservices/>



and only on his resignation and request, he was relieved from the earlier service. Once he resigns the job, he cannot claim continuity of service for the purpose of pension.

8. Further a perusal of the said G.O.Ms.No.441 shows it is applicable only to the non teaching staff of the Government and Universities, who take up appointment under Universities and counting of service rendered by them for the purpose of pension, whereas the petitioner, then non teaching staff of the University took up the appointment in the Government Service in School Department and therefore, this Government Order cannot be made applicable to the petitioner's case. Further the service of the petitioner under the University is also not a Government Service, which cannot be treated as pensionable service. The petitioner shall be treated as a entrant to the Government Service on 22.01.2009 and the earlier services rendered by the petitioner cannot be taken into account for the purpose of pension, as he has resigned the post.

9. Therefore, this Court does not incline to interfere with the impugned order passed by the 1st respondent stating that the petitioner is eligible to come under Contributory Pension Scheme only as his date of joining in the Government Higher Secondary School is 22.01.2009, after the date of 01.04.2003, without continuity of service and accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dsk

To

1. The Senior Accounts Officer,
Office of the P.R. Accountant General,
(Accounts & Entitlements),
361, Anna Salai,
Chennai - 600 018,
Tamil Nadu.

2. The Secretary to Government,
State of Tamil Nadu
Chennai.



3.The Finance Secretary,
Government of Tamil Nadu,
Fort St.Geroge,
Chennai.

WEB COPY

+1 CC to Mr.A.THIRUMURTHY, Advocate (SR-4524[F]
dated 11/02/2021)

+1 CC to Mr.V.CHANDRASEKAR, Advocate (SR-4731[F]
dated 12/02/2021)

+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-4813[F]
dated 12/02/2021)

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VB (23.02.2021) 5P 7C