



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No. 7899 of 2015 and

M.P(MD) .Nos.1 and 2 of 2015

WEB COPY

S.Murugan

:Petitioner

.vs.

1.The Government of Tamil Nadu,
rep.by its Principal Secretary,
School Education Department,
Fort. St. George, Secretariat,
Chennai - 600 009.

2.The Director of School Education,
DPI Campus,
College Road,
Nungampakkam,
Chennai - 600 006.

3.The Chief Educational Officer,
Thoothukudi.

4.The Headmaster,
Government Higher Secondary School,
Veppalodai - 628 903.

4.The Accountant General,
Office of the Accountant General,
(Accounts and Entitlements),
No.361, Anna Salai,
Chennai - 600 015.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ of Certiorari Mandamus calling for the records pertaining to the impugned order passed by the 4th respondent in Na.Ka.No.78/2014, dated 24.04.2015, quash the same and direct the respondents to permit the petitioner to continue in old pension scheme with all attendant benefits.

For Petitioner

: Mr. M. Saravanan

For R1 to R4

: Mr.R. Ragavendran

Government Advocate (Civil Side)

For R5

: Mr.P. Gunasekaran



O R D E R

The Writ petition has been filed to quash the impugned order passed by the 4th respondent in Na.Ka.No.78/2014, dated 24.04.2015 and direct the respondents to permit the petitioner to continue in old pension scheme with all attendant benefits.

2.The petitioner was appointed as an Assessor on 24.11.1995 in Tamil Nadu Electricity Board which is an autonomous body under the Government of Tamil Nadu. Subsequently, the petitioner through Teachers Recruitment Board was selected as PG Assistant (Maths). Since the Tamil Nadu Electricity Board did not allow the petitioner to join the post of PG Assistant, he has filed W.P(MD).No.9586 of 2009 before this Court and this Court vide order, dated 18.06.2009 directed the Tamil Nadu Electricity Board to relieve him from the post of Assessor. The Tamil Nadu Electricity Board vide proceeding, dated 02.12.2009 has relieved the petitioner. On 03.12.2009, the petitioner joined the service in 2nd respondent as PG Assistant without any break in service. Now, the petitioner is claiming to keep him under the old pension scheme and grant him pension.

3. The 3rd respondent has filed a detailed counter and has stated that as per G.O.No.424 Finance (PGC) Department, dated 24.11.2010 the persons appointed on or after 01.04.2003 on transfer / on new appointment through proper channel in any university of Tamil Nadu vice versa shall be allowed to continue in the old pension scheme. The third respondent has interpreted the said G.O since the petitioner has not served in any university, the said G.O is not applicable to him. The Accountant General has issued a clarification that persons only who are served in the Tamil Nadu Government are entitled to get the benefits of G.O.Ms.No.424.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. It is stated that the petitioner resigned from the post and thereafter, as per Rule 23 forfeiture will come into force. However, that has been clarified by the petitioner counsel, since the Tamil Nadu Electricity Board has not relieved the petitioner, he has filed a petition before this Court and this Court vide order, dated 18.06.2009 directed the respondents to consider and relive him. Based on the order, the Tamil Nadu Electricity Board has relieved him from service wherein it has been clearly stated that “உரியவரின் விருப்பத்தின்படி மின்சார வாரியத்திலிருந்து விடுவிப்பு”.So the petitioner has been relieved and not resigned.



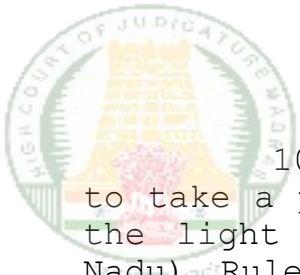
6. In G.O.Ms.No.424 in paragraph No.4, it has been stated as under:

"4. Government after careful consideration, decided to adopt the Office Memorandum of Government of India second read above. Accordingly, the Government direct that the employees who were appointed before 01.04.2003 in other State Universities or autonomous bodies and appointed on or after 01.04.2003 on transfer / on new appointment through proper channel in any University in Tamil Nadu and vice versa shall be allowed to continue in the Old Pension Scheme."

7. The G.O. states that the Government Employees who were appointed before 01.04.2003 in other State Universities or Autonomous bodies and appointed on after 01.04.2003 on transfer / on new appointment through proper channel in any University of Tamil Nadu vice versa shall be allowed to continue in the old pension scheme. The said G.O has stated any autonomous bodies on new appointment, they will be entitled to old pension scheme. Even though the G.O states University in Tamil Nadu which ought to be interpreted as autonomous bodies. The Tamil Nadu Electricity Board will come under the autonomous bodies.

8. The petitioner relying on the General Provident Fund (Tamil Nadu) Rule 4(1)(i). In the explanation it has been stated that in the case of persons transferred to temporary or officiating posts under Government from service under a corporate body owned or controlled by Government or an autonomous organization registered under the Societies Registration Act, 1860 (Central Act XXI of 1860), the service under the corporate body or the autonomous organization, as the case may be shall be treated as service under Government for the purpose of this rule and the person concerned shall be permitted to subscribe to the fund immediately on his joining the Government service provided that he has already completed one year of service under that corporate body or organization as the case may be. This will also apply to a person who is appointed without break whether temporarily or permanently to a post carrying the benefits of those rules after resignation or retrenchment from service under another Department or any other Government. As per the said Rule, the petitioner is entitled to the claim.

9. After perusing all the records and rival submissions of learned counsel appearing on either side, this Court is of the considered opinion that the Tamil Electricity Board is an independent body. But the said G.O. is misleading by stating university alone. Since there is no clarity in the said G.O. this Court is of the opinion that the Government should take a policy decision.



10. Therefore, it is sufficient to direct the respondents to take a policy decision and grant the relief to the petitioner in the light of G.O.Ms.No.424 and the General Provident Fund (Tamil Nadu) Rules, within a period of four months from the date of receipt of a copy of this order.

11. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

trp

To

1. Principal Secretary,
School Education Department,
Fort. St. George, Secretariat, Chennai - 600 009.

2.The Director of School Education,
DPI Campus,
College Road,Nungampakkam,Chennai - 600 006.

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+1 CC to M/s.R.SUBRAMANIAN,Advocate (SR-36932[F] dated 02/12/2021)

+1 CC to M/s.SPL GP (SR-36991[F] dated 02/12/2021)

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MGJ(21.12.2021) 4P 8C