



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2021

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.3459 of 2017

and

W.M.P. (MD)No.2813 and 18909 of 2017

WEB COPY

M.Thanalakshmi

... Petitioner

vs..

1.The Accountant General (Accounts and Entitlements),
Office of the Accountant General
(Accounts and Entitlements), Tamil Nadu,
No.361, Anna Salai, Teynampet,
Chennai - 600 018.

2.The District Elementry Educational Officer,
RMS Road,
Madurai - 625 001.

3.The Assistant Elementry Educational Officer,
Thirupparangundram,
Madurai - 625 005.

4.The Secretary,
Nethaji Middle School,
No.253, Nehru Street,
Jehindhpora, 2nd Street,
Madurai- 625 011.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records from the first respondent in his proceedings in Pen 25/IV/16-17/ADK/125140176, dated, 14.09.2016 and quash the same and consequently, take immediate steps to disburse the applicable terminal benefits to the petitioner and consequently, direct the fourth respondent to send pension proposal to the first respondent, in view of the retirement of the petitioner within the period stipulated by this Court.

For Petitioner : Mr.N.S.Sathish Babu

For R-1 : Mr.P.Gunasekaran

For R-2 and R-3 : Mr.D.Sasikumar

Additional Government Pleader

For R-4 : No appearance



O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned proceedings dated 14.09.2016 and consequently to take immediate steps to disburse the applicable terminal benefits to the petitioner and consequently, direct the fourth respondent to send pension proposal to the first respondent, in view of the retirement of the petitioner within the period stipulated by this Court.

2. The petitioner has completed Certificate Course in Vocational Training and she was appointed on 23.04.2003 as Vocational Teacher in the fourth respondent school, a Government Aided Private School. After serving in the said post, the petitioner retired from service on 31.05.2015. Since the petitioner was appointed on 23.04.2003, initially the Teachers Provident Fund account was started. The petitioner claims that initially, the Teacher Provident Fund subscription was deducted from her salary and the petitioner availed 90% of the provident fund amount, in the month of December, 2014. After the retirement, the petitioner has paid all terminal benefits. The petitioner is seeking pension, since the petitioner has joined on 23.04.2003.

3. The second respondent has filed a counter affidavit stating that the fourth respondent has submitted the pension proposals before the third respondent and the same was forwarded to the first respondent. The first respondent, vide order, dated 14.09.2016, has rejected the petitioner's pension, stating that the Tamil Nadu Pension Rules 1978, is not applicable to the petitioner and she was appointed in service after 01.04.2003. The employees who had been appointed on or after 01.04.2003 are eligible only for Contributory Pension Scheme, whereas the petitioner is not eligible to maintain under the head of previous scheme i.e. "Teacher Provident Fund (TPF Scheme)". The said rejection is challenged herein.

4. The State Government has issued amendment in the Tamil Nadu Pension Rules, 1978 under G.O.Ms.No.259, Finance Pension Department, dated 06.08.2003 and retrospective effect was given on 01.04.2003. As per the said amendment, a new proviso was inserted under Rule (2) of the Tamil Nadu Pension Rules, 1978 and the relevant portion is extracted hereunder:

"Provided that these rules shall not apply to Government servants appointed on or after the 1st April 2003, to services and posts in connection with the affairs of the state which are borne on pensionable establishments, whether temporary or permanent."

Consequently, the Government Order was passed for the Education Department in G.O.Ms.No.430, dated 06.08.2004. Before the implementation of the G.O.Ms.No.430 the petitioner was nominated under "Teacher Provident Fund" cccount, but after the issuance of



G.O., the petitioner's nomination automatically lapsed due to statutory provision as stated in Rule (2) of the Tamil Nadu Pension Rules, 1978 (which was amended through G.O.Ms.No.259, dated 06.08.2003) and G.O.Ms.No.430, dated 06.08.2004. After the amendment the petitioner comes under the new Contributory Pension Scheme and therefore, the claim of the petitioner is ought to be rejected.

5. Heard Mr.N.S.Sathish Babu, learned Counsel appearing for the petitioner and Mr.P.Gunasekaran, learned Counsel appearing for the first respondent and Mr.D.Sasikumar, learned Additional Government Pleader appearing for the respondents 2 and 3.

6. The Rule (2) of Tamil Nadu Pension Rules, 1978 was amended through G.O.Ms.No.259, dated 06.08.2003, which is statutory provision. Even though the Teachers Provident Fund account was started for the petitioner, after the amend of Rule (2) of Tamil Nadu Pension Rules, 1978 through G.O.Ms.No.259, dated 06.08.2003, the same ought to be lapsed statutorily. Consequentially, the Government issued another G.O. for Education Department in G.O.Ms.No.430, dated 06.08.2004, which is in consonance with the amendment. Based on this, the petitioner was brought under Contributory Pension Scheme. Therefore, the claim of the petitioner ought to be rejected and hence the petition is dismissed.

7. In the impugned order, it is stated that the petitioner ought to approach the Government Data Centre therefore, the petitioner is directed to contact the concerned officials to get necessary particulars under the Contributory Pension Scheme Account.

8. Therefore, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

jbr

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



To

1.The Accountant General (Accounts and Entitlements),
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(Accounts and Entitlements), Tamil Nadu,
No.361, Anna Salai, Teynampet,
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2.The District Elementary Educational Officer,
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3.The Assistant Elementary Educational Officer,
Thirupparangundram,
Madurai - 625 005.

+1 CC to M/s.SPL GP (SR-37034[F] dated 02/12/2021)

Order made in

W.P. (MD)No.3459 of 2017

01.12.2021

PK(CO)

GC(23.12.2021) 4P 5C