



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 07.03.2022**

**CORAM**

**THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN**

**AND**

**THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**REV.APLC. (MD)No.56 of 2022 in**

**W.A. (MD)No.307 of 2019 and**

**C.M.P. (MD)No.1912 of 2022**

WEB COPY

1. The State of Tamil Nadu,  
Rep. by the Secretary,  
Finance (Pension) Department),  
Fort St. George, Chennai - 600 009.

2. The State of Tamil Nadu,  
Rep. by the Secretary,  
School Education Department,  
Fort St. George, Chennai - 600 009.

3. The Director of Elementary Education,  
College Road,  
Chennai - 600 006.

4. The District Elementary Educational Officer,  
Ramanathapuram District,  
Ramanathapuram.

5. The Assistant Elementary Educational Officer,  
Ramanathapuram District, Ramanathapuram.

6. The Additional Assistant Elementary  
Educational Officer,  
Ramanathapuram District,  
Ramanathapuram.

... Review Applicants /  
Respondents 1,2 & 4 to 7

Vs.

1. V.Vasanthi,  
Secondary Grade Teacher,  
D.D.Vinayagar Primary School,  
Vellipattinam,  
Ramanathapuram.  
Pin Code - 623 504.

... 1<sup>st</sup> Respondent / Appellant

2. The Accountant General,  
O/o.The Accountant General,  
261, Anna Salai,  
Chennai - 600 018.

... 2<sup>nd</sup> Respondent / 3<sup>rd</sup> Respondent



D.D.Vinayagar Primary School,  
Vellipattinam,  
Ramanathapuram District.  
Pin Code 623 504.

... 3<sup>rd</sup> Respondent / 8<sup>th</sup> Respondent

**Prayer:** Review petition filed under Section 114 of CPC r/w. Order 47, Rule 1 CPC, to review the order dated 02.08.2019 passed in W.A.(MD)No.307 of 2019 on the file of this Court and set aside the same.

**Prayer in WA(MD) . 307/ 2019 :**

Writ Appeal is filed under clause 15 of Letters patent to set aside the order dated 19.11.2018 in W.P(MD)No.901 of 2015.

**Prayer in WP(MD) . 901/ 2015 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records relating to the impunged proceeding issued by the 7th responnent AAEO in Na.K.No.429/A1/2014 dated 30.5.2014 and the proceedings issued by the 5th respondent DEEO in Oo.Mu.NO.02876/A2/2014 dated 15.07.2014 quash the same and further direct the respondents herein to allow forthwith the petitioner to continue under her Teacher provident Fund Scheme i.e. Old pension Scheme bearing Account No.339306.

For Petitioners : Mr.S.P.Maharajan,  
Special Government Pleader.

For R-1 : Ms.Amala

\* \* \*

**O R D E R**

**[Order of the Court was made by G.R.SWAMINATHAN, J.]**

Heard the learned Special Government Pleader appearing for the review applicants and the learned counsel appearing for the first respondent.

**2.** Aggrieved by the order dated 02.08.2019 allowing W.A.(MD)No.307 of 2019, the Government has filed this review application.

**3.** The basic facts are not in dispute. One Vasanthi was appointed as Secondary Grade Teacher in D.D.Vinayagar Primary School, Vellipattinam, Ramanathapuram District, on 24.09.2002. The petitioner possessed all the qualifications required for being appointed as a graduate teacher. Such a person was permitted to be appointed as Secondary Grade Teacher by virtue of G.O.Ms.No.301 School Education (B1) Department dated 15.10.1999. However, such persons had to undergo one month child psychology training. After



the petitioner was appointed as Secondary Grade Teacher, the school management sent a proposal on 24.09.2002 to the Department for sending the writ petitioner for such training. On account of delay on the part of the Department in sending her, the writ petitioner could complete the training only on 27.10.2004. Her appointment was approved with effect from the date of completion of training. She was also placed under the old teachers' Provident Fund Scheme. Several years later, this placement was cancelled by proceedings dated 30.05.2014 by the Additional Assistant Elementary Educational Officer, Ramanathapuram. That was put to challenge in W.P.(MD) No.901 of 2015. By Order dated 19.11.2018, the said writ petition was dismissed. Challenging the same, W.A.(MD)No.307 of 2019 was filed. After hearing both sides, by Order dated 02.08.2019, the writ appeal was allowed and the order passed by the learned single Judge was set aside. Aggrieved by the same, this review application has been filed.

4. The learned Special Government Pleader reiterated all the contentions set out in the memorandum of grounds in the review. He placed particular reliance on the orders rendered in W.A.(MD)No.74 of 2015, W.A.(MD)No.957 of 2016, W.A.(MD)No.336 of 2018 and W.A.No.1344 of 2014.

5. No doubt, the said orders do favour the stand taken by the learned Special Government Pleader. But the question is whether this review application can be allowed in the light of those decisions.

6. The sum and substance of the issue arising for our consideration is whether the writ petitioner can be placed under the old pension scheme or under the new contributory pension scheme. The Government of Tamil Nadu issued G.O.No.430, Finance (Pension) Department, dated 06.08.2004 stating that the new contributory pension scheme will be introduced to the newly recruited employees and it will apply to all the employees who are recruited on or after 01.04.2003. The Hon'ble Division Bench while allowing the respondent's writ appeal had taken the view that the writ appeal has to be allowed, since the writ petitioner was appointed prior to 01.04.2003. The Hon'ble Division Bench made a clear distinction between 'recruitment' and 'approval of appointment'. Though approval of the appointment of respondent came after the cut-off date, the undisputed fact is that her recruitment was prior to the cut-off date. In that view of the matter, the writ appeal was allowed.

7. It is well settled that a review application cannot be argued like an appeal. A decision was rendered on merits after considering the rival contentions. The only course open to the review applicants is to challenge the same before the Hon'ble Supreme Court. Filing review petition is misconceived. We do not find any ground to entertain the same.



8. This review petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

PMU

**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 Secretary,  
State of Tamil Nadu,  
Finance (Pension) Department),  
Fort St. George, Chennai - 600 009.
- 2.The Secretary,  
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School Education Department,  
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Ramanathapuram District, Ramanathapuram.
6. The Additional Assistant Elementary Educational Officer,  
Ramanathapuram District, Ramanathapuram.

+1 CC to M/s.A.AMALA, Advocate ( SR-10529[F] dated 08/03/2022 )

+1 CC to M/s.SPL GP ( SR-10629[F] dated 08/03/2022 )

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