



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No. 3113 of 2022

and

W.M.P. (MD) No. 2723 of 2022

Dr.P.Nagoorkani,
S/o.K.Pandaram,
Assistant Professor,
Department of Modern History,
Door No.9, New Teachers Kudiyruppu,
Madurai Kamaraj University Campus,
Madurai - 625 021. ... Petitioner

Vs.

1. The Principal Secretary to Government,
Higher Education Department,
Government of Tamil Nadu,
Secretariat,
Chennai - 600 009.
2. The Registrar,
Madurai Kamaraj University,
Madurai 625 021. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the second respondent not to utilize the CPS (Contributory Pension Scheme Fund) for the purpose of disbursing the salary of employees and to create separate CPS Account in the name of individual employees and to deposit which already deducted CPS amount from the employees salary along with contribution of the Tamil Nadu State Government share in the light of G.O.Ms.No.259 dated 06.08.2003 and G.O.Ms.No.430 dated 06.08.2004 based on petitioner's representation dated 28.01.2022.

For Petitioner : Mr.A.D.Ganeshamoorthi

For Respondents : Mr.V.Om Prakash
Government Advocate for R1
No appearance for R2



O R D E R

The Writ of Mandamus is filed to direct the second respondent not to utilize the CPS (Contributory Pension Scheme Fund) for the purpose of disbursing the salary of the employees and to create separate CPS Account in the name of individual employees and to deposit the deducted CPS amount from the employees salary along with contribution of the Tamil Nadu State Government share in the light of G.O.Ms.No.259 dated 06.08.2003 and G.O.Ms.No.430 dated 06.08.2004 based on petitioner's representation dated 28.01.2022.

2. The petitioner states that he is working as an Assistant Professor in the Department of Modern History, School of Historical Studies, Madurai Kamaraj University, Madurai. The petitioner is working with the second respondent University for about 14 years in the post of Assistant Professor. The petitioner states that he completed Ph.d in the year 1992.

3. The Government of Tamil Nadu introduced a New Pension Scheme in the name of Contributory Pension Scheme issued in G.O.(Ms) No.259, Finance (Pension) Department dated 06.08.2003 fixing the crucial date for CPS Scheme as 01.04.2003. The Tamil Nadu Pension Rules, 1978 was also amended with effect from 01.04.2003. As per the Government policy of New Pension Scheme (CPS), separate CPS Account is to be opened, and allotted individual CPS number in the name of every employees must be provided. The petitioner was admittedly recruited under the New pension Scheme, i.e., CPS and he states that, there is no separate CPS Account opened in the name of the writ petitioner.

4. The learned counsel appearing for the petitioner mainly contended that the CPS contributions collected are not properly accounted under separate account numbers allotted to the employees. The said amount has been utilized for the payment of salary and therefore, the petitioner is constrained to move the present Writ Petition.

5. The learned counsel appearing for the petitioner relied on the Government Orders issued in G.O.Ms.No.259 and G.O.Ms.No.430. The G.O.Ms.No.259 dated 06.08.2003 is the New Contribution Pension Scheme to the Tamil Nadu State Government employees with effect from 01.04.2003. Pursuant to the introduction of the New Pension Scheme, the pension rules were amended. G.O.Ms.No.430 dated 06.08.2004 states the procedures to be followed for implementing the Contribution Pension Scheme.

6. This Court is of the considered opinion that the petitioner filed this Writ Petition merely on apprehension and therefore, the Writ Petition is pre-mature. Admittedly, the petitioner is having



one more year of service in Madurai Kamaraj University and the utilization of funds or keeping the funds is the administrative affair of the Government, which cannot be interfered with by the petitioner. The petitioner being an employee is entitled for his service benefits and also the terminal and pensionary benefits as per the scheme. Only in the event of non-payment or otherwise, the petitioner may approach the Authorities or the Court of law to redress the grievances. The petitioner cannot interfere with the financial administration and maintenance of funds by the Government which is a policy decision and it is for the Government to regulate the funds in the manner provided.

7. Contrarily, the petitioner who is an employee working as an Assistant Professor cannot raise an unnecessary apprehension that the funds are not properly accounted. The petitioner as an employee has no locus standi, as he cannot be construed as an aggrieved person. After retirement, if the terminal and pensionary benefits are not settled, then alone the petitioner may initiate appropriate steps for disbursement of pensionary and terminal benefits.

8. The Writ Petitions filed merely based on the apprehension cannot be entertained. This being the factum, the writ petitioner has not established even a semblance of legal right, and maintenance of pension scheme funds are the administrative prerogative of the Government which is no way connected with the service conditions of the petitioner and the petitioner is not an aggrieved person and further the Writ Petition is pre-mature and filed based on the apprehensions. Admittedly, the petitioner is working as an Assistant Professor receiving his monthly salary and he is having one more year of service.

9. Accordingly, this Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

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Sub Assistant Registrar(CS)

vji



To

1. The Principal Secretary to Government,
Higher Education Department,
Government of Tamil Nadu,
Secretariat,
Chennai - 600 009.

2. The Registrar,
Madurai Kamaraj University,
Madurai 625 021.

+1 CC to M/s.A.D.GANESHA MOORTHY, Advocate (SR-6942[F] dated
18/02/2022)

+1 CC to M/s.SPL GP (SR-7103[F] dated 18/02/2022)

**W.P. (MD) No. 3113 of 2022
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MGJ(17.03.2022) 4P 5C