



W.P.(MD).No.24759 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2022

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

**W.P.(MD).No.24759 of 2019
and
W.M.P.(MD).No.21363 of 2019**

P.Agnes Gnanam

... Petitioner

Vs.

- 1.The Accountant General,
Office of the Accountant General,
Chennai,
Tamilnadu,
261, Annasalai,
Chennai – 600018.
- 2.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George,
Chennai – 600 009.
- 3.The Director of School Education,
College Road,
Chennai – 600 006.
- 4.The Inspector of Anglo Indian Schools,
Chennai – 600 006.



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5.The Chief Educational Officer,
Trichy District at Trichy.

6.The District Educational Officer,
Trichy,
Trichy District.

7.The Correspondent,
St.Josephs Anglo Indian Girls
Higher Secondary School,
Trichy – 620 001.

8.The Commissioner,
Government DATA Centre, Guindy,
Chennai – 600 025.

...Respondents

(R-8 is impleaded vide Court order dated 21.06.2022 in W.M.P.(MD).No.4564 of 2021 in W.P.(MD).No.24759 of 2019)

Prayer : Writ Petition 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 impugned proceedings issued by the sixth respondent District Educational Officer in O.Mu.No.2278/A2/2019 dated 26.08.2019, quash the same and further direct the respondents to sanction and disburse monthly pension to the petitioner under Old Pension Scheme bearing ASTPF No.1826/AIS, and all other monetary benefits, viz., DCRG and Commutation etc as per G.O.No.413 (Finance (PGC) Department) dated 04.11.2010 .



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For Petitioner : Mr.S.Xavier Rajini
For R-1 : Mr.P.Gunasekaran,
Standing Counsel.
For R-2 to R-6, R-8 : Mr.S.Shaji Bino,
Special Government Pleader.
For R-7 : Fr.Savarimuthu
for M/s.Father Xavier Associates

ORDER

The petitioner's claim for pension under the Old Pension Scheme was rejected through the impugned order, dated 26.08.2019, on the ground that the petitioner had completed the one month Child Psychology Training between 02.05.2003 and 31.05.2003 and her appointment was approved only with effect from 02.06.2003, which is after the cut-off date of 01.04.2003.

2. The issue involved in the present Writ Petition is squarely covered by a decision of the Hon'ble Division Bench of this Court in the case of ***V.Vasanthi Vs. The State of Tamil Nadu represented by Secretary, Finance (Pension) Department, Fort St. George, Chennai and others***, reported in ***(2019) 4 CTC 865***, which came to be relied upon by me in a subsequent decision in the case



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of *M.Thirumugam Thiresa Vs. The State of Tamil Nadu, Represented by it's*

Secretary to Government, School Education Department, Secretariat,

***Chennai and others* in *W.P.(MD).No.25137 of 2019, dated 05.07.2022.* The**

relevant portion of the order reads as follows:

“The petitioner's claim for pension under the Old Pension Scheme came to be rejected through the impugned order, dated 21.06.2019, stating that since the petitioner had completed the mandatory training only on 31.05.2003, which date falls after the cut-off date of 01.04.2003, she is eligible only for the Contributory New Pension Scheme.

*...6. This issue has already been dealt by the Hon'ble Division Bench of this Court in the case of **V.Vasanthi Vs. The State of Tamil Nadu represented by Secretary, Finance (Pension) Department, Fort St. George, Chennai and others**, reported in (2019) 4 CTC 865 in the following manner:*

“12.A careful perusal of the above observation made in the said Pallivasal Primary School case would show that even though approval of the appointment of the teacher, who has undergone Child Psychology Training, will take effect only on completion of such training, the past service rendered by such teacher i.e., service rendered before the completion of such training, is bound to be counted for



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pension. In other words, the service period of such teacher commences from the date of the appointment and not from the date of approval, even though the monetary benefits start to accrue only from the date of completion of the training. Therefore, for all practical purposes, the date of appointment is not altered and remain to be the same. Therefore, the date of approval of appointment of the writ petitioner cannot be construed as the date relevant for considering the applicability of the pension scheme and on the other hand, it is the original date, on which the writ petitioner got appointed that matters for considering as to whether the writ petitioner is governed under the Old Pension Scheme or not. At this juncture, it is relevant to note that in G.O.Ms.No.259, Finance (Pension) Department, dated 06.08.2003, a proviso to Rule 2 of the Tamil Nadu Pension Rule 1978, was introduced by way of amendment, wherein and whereby, it is contemplated that the Tamil Nadu Pension Rules 1978 shall not apply to Government Servants “appointed” on or after 1st April 2003 to services and posts. The word “appointed” referred in the said proviso cannot be construed to mean approval of such appointment.”



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7. The aforesaid extract is self-explanatory. As such, the crucial date to be taken into consideration for the purpose of determining the applicability of the pension scheme would be from the date on which the concerned employee was originally appointed. Since the petitioner's appointment has been approved by the educational authorities with effect from 01.06.1997, the stand taken by the respondents in the impugned order cannot be sustained.”

3. The aforesaid extract is self-explanatory. As such, the reasoning adopted by the respondents stating that the petitioner has completed her Child Psychology Training between 02.05.2003 and 31.05.2003 and her appointment was approved only with effect from 02.06.2003 cannot be sustained in view of the categorical decision of the Hon'ble Division Bench of this Court (as extracted above).

4. Accordingly, the impugned order, dated 26.08.2019, on the file of the sixth respondent is quashed. Consequently, there shall be a direction to the fifth and sixth respondents to bring the petitioner herein under the Old Pension Scheme and sanction the monthly pension including other monetary benefits, within a period of six (6) weeks from the date of receipt of a copy of this order.



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5. This Writ Petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

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Index : Yes / No
Internet : Yes/ No
Lm

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M.S.RAMESH, J.

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