



W.P.No.13785 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.13785 of 2022

and

W.M.P.Nos. 13082, 13083 & 13085 of 2022

- 1.N.Saradhamani
- 2.J.Thilagavathy
- 3.S.Latha
- 4.P.Arulmani
- 5.P.Shanmuga Vadivu
- 6.P.Irin Shanthi
- 7.R.Revathi
- 8.T.Mercy Beula
- 9.K.Kannimary
- 10.A.Maheswari
- 11.S.Sophia Sukumar
- 12.K.Malarkodi
- 13.R.Vijaya
- 14.I.Kanuganthammal
- 15.S.Selvi
- 16.D.Jeyakanthi
- 17.R.Vijayachithra
- 18.P.Daisy Thangam
- 19.K.Kasthuri
- 20.M.Daisy Rani
- 21.S.Kalarani
- 22.P.Thenmozhi
- 23.N.Mohanasundari
- 24.S.Sumathi
- 25.T.Vijayalakshmi
- 26.D.Manonmani
- 27.B.Selvarani
- 28.P.Vasanthi
- 29.A.Regina Selvarani
- 30.Y.Suganthi
- 31.I.JulietMerlin
- 32.P.Shanthi



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- 33.G.Jothilakshmi
- 34.M.Shakila Hussain
- 35.I.Parimala
- 36.E.R.Rathaivetrichelvi
- 37.C.Bharathi
- 38.R.Savithiri
- 39.P.Karuppayal
- 40.J.Nirmala
- 41.P.Vijaya
- 42.A.Suguna
- 43.A.Shanthi
- 44.P.Ramani
- 45.F.Ajantha Violet
- 46.C.Krishnamurthi
- 47.C.Nallasamy
- 48.M.Muthukrishnan
- 49.M.P.Venkatachalam
- 50.A.Thiruselvam
- 51.P.K.Marshall Tito
- 52.K.Venkatesh
- 53.S.Baskaran
- 54.A.Annal
- 55.P.Sampath
- 56.S.Subetha Begam
- 57.R.Bharathi
- 58.S.Meenatshi
- 59.K.Karuppusamy
- 60.M.Rengaraju
- 61.M.Sivasangar
- 62.R.Jothilingam
- 63.N.Devipriya
- 64.N.Radha
- 65.P.Ravi
- 66.P.Sumathi
- 67.Dr.S Sachithanantham
- 68.Dr.Sendhil Sengodan
- 69.Dr.A.Rajakumari
- 70.Dr.V.K.Venkateswaran
- 71.Dr.K.Prakash
- 72.Dr.P.Brabakar
- 73.Dr.P.T. Rani
- 74.Dr.P.Rajeswari
- 75.Dr.P.Nallalan
- 76.Dr.A.Shajahan



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- 77.Dr.M.Chelladurai
- 78.Dr.P.Bama
- 79.Dr.G.K.Sudarsan
- 80.Dr.M.Gopinathan
- 81.Dr.R.Velumani
- 82.Dr.P.M.Sukala
- 83.Dr.P.Bagavathiammal
- 84.R.Christober
- 85.S.Thirunavukkarasu
- 86.V.Asokkumar
- 87.J.Edwin Prasath
- 88.S.T.Sivakumar
- 89.G.Gandhimathi
- 90.K.Vanitha
- 91.S.Manoharan
- 92.P.Thamizhvanan
- 93.K.P.Latha
- 94.S.M.K.Velsaamy
- 95.V.Suganya
- 96.A.Ganesh
- 97.K.Dharmalingam
- 98.K.Viswanathan
- 99.C.Murugan
- 100.M.Hamsavalli
- 101.M.Murugesan
- 102.R.Esther
- 103.R.Malliga
- 104.P.Achudhan
- 105.K.Jayanthi
- 106.S.L.Augustine
- 107.G.Krishnaveni
- 108.M.Ahmed Basha
- 109.L.Priya
- 110.M.Jagadeesan
- 111.K.Shanmugasundaram
- 112.N.Balakrishnan
- 113.R.Muthukumar
- 114.P.Sabapathy
- 115.S.C.Lilly Packiam
- 116.G.Vanaja
- 117.M.Mohandas Manickraj
- 118.M.Kadarbasha
- 119.K.K.Poovarasu
- 120.S.S.Geetha



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- 121.S.Rajeswari
- 122.P.Manoharan
- 123.S. Soundararajan
- 124.J.Ramesh
- 125.N.Shanmugasundaram
- 126.P.Matheswaran
- 127.R.Saraswathy
- 128.L.Ruby Bakiam
- 129.K.Latha
- 130.E.R.Anandaselvi
- 131.K.Radhamani
- 132.P.Kanniammal
- 133.D.Lathamary
- 134.P.Seelia Selvi
- 135.D.Dhurkkadevi
- 136.S.Shayira Banu
- 137.S.Rachel
- 138.I.Esther Rani
- 139.S.P.Kalyani
- 140.T.Nagarajan
- 141.M.Kolanjiappan
- 142.S.Amudhavalli
- 143.K.R.Velmurugan
- 144.S.Rajendran
- 145.N.Bhupathi
- 146.A.Harunbatcha
- 147.P.K.Murugesan
- 148.M.G.Bhuvaneswari
- 149.M.Saroja
- 150.T.Hendry Prabakaran
- 151.R.Shanmugasundaram
- 152.S.Senthilkumar
- 153.J.Sureshkumar
- 154.S.Arthanareswaran
- 155.R.Ayyakannu
- 156.A.R.V.Kalidass
- 157.K.A.Sathia Murthi
- 158.D.Raja
- 159.C.Amudha
- 160.R.Gomathi
- 161.P.Sankar
- 162.N.Muralikrishnan
- 163.R.Hendry Wilson
- 164.T.Jeyaruby



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165.M.Bhaskaran
166.M.K.Ajantha
167.P.Rajamanickam
168.M.Palanisamy
169.P.Ramesh
170.V.Manivannan
171.P.Rajendran
172.M.Shanmugasundaram
173.Dr.S.Uma
174.S.M.Rafi
175.P.Srinivasan

Petitioners

VS

- 1.The Government of Tamil Nadu
Rep. by its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Fort St. George
Chennai 600 009.
- 2.The Director of Medical Education,
Kilpauk, Chennai 600 010.
- 3.The Director of Medical Services,
DMS Campus,Teynampet,
Chennai 600 006.
- 4.The Dean
Government Erode Medical College and Hospital,
Perundurai, Erode District 638 053.
- 5.The Director
The Institute of Road Transport,
Tharamani Chennai 600 113.
- 6.The Government of Tamil Nadu
Rep. by its Principal Secretary to Government,
Finance Department,
Fort St. George,
Chennai - 600009.

.. Respondents

(R6 IMPEADED VIDE ORDER DT 29.08.2023)



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Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for for the records pertaining to the proceedings of the 1st respondent in letter No.30640/E2/2019-9 dated 10/05/2022 to quash the same as illegal incompetent and ultra vires and consequently direct the respondents to include the petitioners in the General Provident Fund (Tamil Nadu) / Old Pension Scheme as per the Tamil Nadu Pension Rules 1978.

For Petitioners	:	Mr.R.Singaravelan, Sr.Adv for Mr.R.Jayaprakash
For Respondents	:	Mr.P.Kumaresan, AAG assisted by Mr.E.Vedabagath Singh, Spl GP for R1 to R4
		Mr.T.Chandrasekaran for R5
		Mr.J.Ravindran, AAG assisted by Mr.U.Baranidharan, AGP for R6

ORDER

Writ petition has been filed challenging the Government Order dated 10.05.2022 by rejecting the representation of the employees who were absorbed by the Medical College and to place them under the General Provident Fund / Old Pension Scheme.



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2. The brief facts leading to filing of the present writ petition is that vide G.O.(Ms).No.308, Transport (B-1) Department, dated 24.10.2018, the IRT – Perundurai Medical College and Hospital at Perundurai, Erode which is run by the Institute of Road Transport has been taken over by the State Government. G.O.(Ms).No.70, Health and Family Welfare (E2) Department, dated 26.06.2020 has been thereafter issued to absorb 317 existing posts for the IRT Perundurai Medical College. While absorbing the petitioners to the staff of the medical college taken over by the Government, the Government Order did not indicate anything about the pensionary benefits. Thereafter, the Director of Medical Education requested to admit the students of erstwhile IRT Perundurai Medical College and Hospital who have been absorbed to the Government Medical College and Hospital, who was appointed on or before 31.03.2003 to be placed in the erstwhile GPF Scheme. However, the Government rejected the same holding that since they were absorbed to the post on and from 01.04.2019, only the EPF Scheme is applicable to them to be governed by the previous conditions in the Employees Provident Fund Scheme, 1952. Challenging the same, the present writ petition has been filed.



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3. The counter affidavit filed by the respondent nos. 1, to 4 states and admits that the petitioners have contributed for the provident fund and so also the employer.

4. From the counter affidavit filed by the sixth respondent, it is clear that the petitioners were appointed as per the IRT Perundurai Medical College and Hospital Service Rules wherein the appointments were made through the Selection Committee of the Governing Council. Thus, it is contended through the counter affidavit that the petitioners would be entitled only to CPF Scheme and, therefore, prays for dismissal of this writ petition.

5. Mr.R.Singaravelan, learned Senior Counsel appearing for the petitioners submitted that if the petitioners are not entitled to GPF Scheme, they are entitled to get the benefit under the existing Scheme i.e., EPF Scheme, in which the petitioners are members.

6. Learned Senior Counsel also brought to the notice of this Court G.O.(Ms).No.180 Higher Education (J2) Department dated 06.06.2023 passed by the Government and submitted that



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while taking over the engineering college of the IRT, all the existing staff who are governed by the EPF Scheme are entitled to employer's contribution towards the pension scheme. Though such a provision is made for similarly situated persons of the engineering college who were absorbed by the Government, the same provision was not made while absorbing the petitioners in the medical college.

7. Learned Additional Advocate General would submit that the petitioners are not entitled to claim pension in the existing Scheme and the Government is willing to extend the same benefits that were granted to the staff of engineering college as per G.O.Ms.No.180 dated 06.06.2023 to the petitioners who were absorbed in the medical college as well.

8. The respondents have not disputed that the petitioners were in the EPF Scheme. The statement filed by the fifth respondent indicate that they were under the EPF Scheme and employer contribution has been paid regularly till 29.02.2020. However, after the staff have been absorbed to the Government Medical College pursuant to G.O.Ms.No.70 dated 26.06.2020 as there was no indication in the G.O as to the existing staff under



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EPF Scheme, the contribution from the employer under the EPF Scheme has not been made by the then IRT or the present management. The confusion was created only after passing of G.O.Ms.No.70 dated 26.2.2020. There was no provision whatsoever made with regard to the existing EPF Scheme.

9. Be that as it may, the petitioners will be satisfied if the EPF scheme is extended to them and necessary contribution is made by the Government towards the said Scheme. In this regard, it is relevant to note that while taking over the engineering college of the IRTT by the Government, a separate G.O. has been passed in G.O.Ms.No.180 dated 06.06.2023. The said G.O. talks about retirement benefits for IRTT staff in sub-clause ix of Clause 6, which reads as under:-

"ix. Regarding retirement benefit for IRTT staff who are governed by EPF Scheme, retired staff / expired staff after the cutoff date, shall be paid DCRG as per the existing procedure in IRT under the EPF Pension Scheme. Similarly, the IRTT Staff who are under EPF Pension Scheme will continue to be under EPF Pension Scheme and IRT shall ensure to honour the benefits as per the EPF Pension Scheme. Except the employer's contribution towards EPF Pension Scheme, no other pension benefits can be claimed from the Government."

10. Learned Additional Advocate General submitted that



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the benefit will also be extended to the staff of the medical college.

11. In such view of the matter, as the Government has clearly agreed that the staff under EPF Pension Scheme will continue to be under the said Scheme and the report submitted by the fifth respondent indicates that the petitioners were in the said Scheme and necessary contribution has been made by the petitioners and IRTT management till 29.02.2020, to continue with the scheme after taking over the management and absorbing the petitioners as the Government staff, the Government shall necessarily contribute towards EPF Scheme of the petitioners. Therefore, both the petitioners/employees and the employer/Government shall contribute their respective shares from 01.03.2020 so that the petitioners will get the pension as per the existing EPF Scheme. Such contribution shall be made without any further delay within a period of three months from the date of receipt of a copy of this order.

12. With the above observations, this writ petition stands disposed of. No costs. Connected miscellaneous petitions are



closed.

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Index:Yes/No
Neutral Citation:Yes/No
ssm

To

- 1.The Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Fort St. George, Chennai 600 009.
- 2.The Director of Medical Education,
Kilpauk, Chennai 600 010.
- 3.The Director of Medical Services,
DMS Campus,Teynampet,
Chennai 600 006.
- 4.The Dean
Government Erode Medical College and Hospital,
Perundurai, Erode District 638 053.
- 5.The Director
The Institute of Road Transport,
Tharamani Chennai 600 113.
- 6.The Principal Secretary to Government,
Finance Department,
Fort St. George,
Chennai - 600009.



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N.SATHISH KUMAR,J.

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