



W.P(MD)No.7308 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.9601 of 2018

and

W.M.P(MD)No.6999 of 2018

1.C.Mathivanan
2.M.Abhisheik

... Petitioners

Vs.

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

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

3.The Principal Accountant General (A &E),
Office of the Accountant General,
261, Annasalai, Chennai – 600 018.

4.The Director of Elementary Education,
College Road, Chennai – 600 006.

5.The District Elementary Educational Officer,
Theni, Theni District.

6.The Assistant Elementary Education Officer,
Theni, Theni District.



W.P(MD)No.7308 of 2018

7.The Secretary,
Nadar Saraswathi Primary School
Theni, Theni District.

8.The Commissioner,
Government Data Center,
Anna University Campus,
Gandhi Mandapam Road,
Chennai – 600 025.

... Respondents

(8th respondent is impleaded as per order dated
16.02.2023 made in W.M.P(MD)No.8845 of 2018 in
W.P(MD)No.7308 of 2018 by MDIJ)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the third respondent Principal Accountant General in No.P24/2/12415381/ADK dated 23.06.2017, quash the same and further direct the respondents 3 to 7 herein to sanction and disburse forthwith the pension benefits due to the petitioners viz., the General Provident Fund, Gratuity, Pension admissible to the petitioners with penal interest at the rate of 12%.

For Petitioner	:Mr.K.Prabhu
For RR1, 2, 4 to 6	:Mr.S.Saji Bino, Special Government Pleader
For R-3	:Mr.P.Gunasekaran
For R-7	:Mr.H.Mohamed Imran



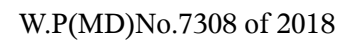
W.P(MD)No.7308 of 2018

WEB COPY

respondent vide the impugned proceedings, dated 23.06.2017, rejected the proposal stating that the wife of the first petitioner was appointed on 04.04.2003 (ie., after 01.04.2003), she was not entitled for pensionary benefits. Challenging the same, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that though the wife of the first petitioner got selected on 04.04.2003 and thereafter, the Educational Authorities approved her appointment on 10.04.2003, the recruitment process started much before the crucial date ie., 01.04.2003 and hence, the petitioner is entitled to come under the Old Pension Scheme and therefore, the impugned rejection order passed by the third respondents is not sustainable one and prays for appropriate orders.

4. The learned Special Government Pleader appearing for the official respondents, would submit that the wife of the first petitioner and mother of the second petitioner was selected by the School Committee and appointed as a Secondary Grade Teacher on 04.04.2003 and the said appointment was also approved vide order of the fifth



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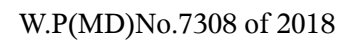
W.P(MD)No.7308 of 2018

WEB COPY

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. Admittedly, the wife of the first petitioner was appointed as a Secondary Grade Teacher in the seventh respondent school on 04.04.2003 and the same was approved on 10.04.2003. As per G.O.Ms.No.430, dated 06.08.2004, the Government of Tamil Nadu, introduced a Contributory Pension Scheme mandatory for the employees appointed on or after 01.04.2003. Under the Contributory Pension Scheme, the employer has to contribute amount towards New Pension Scheme and the Old Pension Scheme will not apply to the employees appointed on or after 01.04.2003.

7. In the present case, though the selection process was started before 01.04.2003, the petitioner was appointed only on 04.04.2003 and the same was approved on 10.04.2003 and hence, the Old Pension Scheme is not applicable to her and therefore, this Court cannot interfere with the order passed by the third respondent. However, the seventh respondent school management shall forward a fresh pension proposal to the appropriate authority for disbursement of terminal benefits to the



With the above direction, this writ petition is disposed of.

16.02.2023

To:

1. The Secretary,
State of Tamil Nadu,
Department of Finance (Pension),
Fort St. George, Chennai – 600 009.
2. The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai – 600 009.
3. The Principal Accountant General (A &E),
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W.P(MD)No.7308 of 2018

WEB COPY

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W.P(MD)No.7308 of 2018

M.DHANDAPANI, J.

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W.P.(MD)No.7308 of 2018

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