



*W.P(MD)No.22275 of 2023*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.10.2023**

CORAM

**THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.22275 of 2023**

**and**

**W.M.P(MD)No.18556 of 2023**

S.Bharathan

... Petitioner

Vs.

1.The Bharathidasan University,  
Represented by its Registrar,  
Palkalaiperur,  
Tiruchirappalli-620 024.

2.The Director,  
Local Fund Audit Department,  
Kuralagam,  
Chennai.

3.The Regional Joint Director,  
Local Fund Audit Department,  
Trichirappalli Corporation Water Tank Complex,  
1<sup>st</sup> Floor, Dindigul Road,  
Trichirappalli-620 001.

4.The Director,  
Local Fund Audit Department,  
Bharathidasan University,  
Trichirappalli-620 024.

... Respondents



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**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the 1<sup>st</sup> respondent pertaining to its proceeding in Na.Ka.No.B1/041579/2015, dated 26.10.2022 and to quash the same and consequently directing the respondents to implement the resolution of the syndicate bearing No.2015.119.2, dated 24.07.2015 and to include the name of the petitioner in the old pension scheme and to grant all benefits of old pension scheme by considering the representation of the petitioner, dated 16.11.2022 within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.S.C.Herold Singh  
For R1 & R4 : Mr.VR.Shanmuganathan  
For R2 & R3 : Mr.J.Ashok  
Additional Government Pleader

**ORDER**

The present writ petition has been filed by an Office Assistant in the Department of Physical Education in Bharathidasan University, challenging an order, dated 26.10.2022, wherein the previous order of the University, dated 03.04.2019 was recalled and the petitioner was directed to become a member of Contributory Pension Scheme.



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2. The petitioner herein was originally appointed as an Office Assistant on a temporary basis in the year 1992. Admittedly, his services were regularized with effect from 05.06.2008. By way of an order, dated 03.04.2019, the 1<sup>st</sup> respondent herein has passed an order implementing the Old Pension Scheme for the writ petitioner. However, audit objection has been raised in Audit Report Para No.121 for implementing the Old Pension Scheme in favour of the writ petitioner, whose services were regularized with effect from 05.06.2008.

3. In view of the audit objection, the University has passed the present impugned order on 26.10.2022, wherein the writ petitioner was directed to become a member of Contributory Pension Scheme. According to the writ petitioner, he was not issued with any notice or given personal hearing before passing of the impugned order.

4. Per contra, the learned standing counsel appearing for the University relies upon the Full Bench judgment of our High Court reported in **2019 (6) CTC 705 (The Government of Tamil Nadu & Others Vs. R.Kaliyamoorthy)** to contend that though the petitioner was appointed in the year 1992, his services were regularized only in the year



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2008. Therefore, he is not entitled to the benefits of Old Pension Scheme.

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5. Considering the fact that the order impugned in the writ petition has been passed by the University without affording any opportunity to the writ petitioner, the order is set aside and the matter is remitted back to the file of the 1<sup>st</sup> respondent herein for passing fresh orders after giving due opportunity to the writ petitioner.

6. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

**04.10.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No

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1. The Registrar,  
The Bharathidasan University,  
Palkalaiperur,  
Tiruchirappalli-620 024.



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**R.VIJAYAKUMAR ,J.**

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Order made in  
W.P(MD)No.22275 of 2023

Dated:  
04.10.2023