



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-03-2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE K.RAJASEKAR**

**WP No.1214 of 2024
And
WMP No.1258 of 2024**

- 1.S.Sivashanmugam
- 2.V.Rejnish
- 3.V.Silvia
- 4.B.Shobankumar
- 5.G.Irudaya Yoganand
- 6.M.Muruguranjani
- 7.Semira Kakot Manoli
- 8.Rama Krishna Golugula
- 9.P.Velayoudam
- 10.P.Chandravarman
- 11.V.Jayabalasubramanian

.. Petitioners

-VS-

- 1.The Union of India,
by the Government of Puducherry,
Represented by its Chief Secretary,
Chief Secretariat, Goubert Avenue,
Puducherry.



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2. The Special Secretary,
Department of Personnel and Administrative
Reforms Wing (Personnel Wing),
Government of Puducherry,
Chief Secretariat, Goubert Avenue,
Puducherry.

3. The Finance Department,
Represented by its Secretary,
Government of Puducherry,
Chief Secretariat, Goubert Avenue,
Puducherry.

4. The Law Department,
Represented by its Secretary,
Government of Puducherry,
Chief Secretariat, Goubert Avenue,
Puducherry.

5. The Judicial Department,
U.T. of Puducherry,
Represented by the Chief Judge,
Integrated Court Complex,
Cuddalore Road,
Mudaliarpet,
Puducherry.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling upon the records of the respondent dated 08.11.2023 in Ref.No.2340/JD/A/2023 and quash the same and direct the respondent 1 to 5 to approve the one-time option exercised by the petitioners 1 to 11 vide their representations dated 20.03.2023 to 28.03.2023 and consequently hold that the petitioners 1 to 11



are eligible to switch over from National Pension System (NPS) to CCS (Pension) Rules, 1972 (now 2021) as per the Office Memorandum No.5705 /05/2021-P&PW(B) dated 03.03.2023 of the Ministry of Personnel, Government of India communicated vide I.D. Note / Office Memorandum No.G.12011/FD/F3/A2/2018, dated 13.03.2023 of the third respondent and to grant all consequential service and pension scheme under CCS (Pension) Rules 1972 benefits.

For Petitioners : Mr.Swarnam J.Rajagopalan
For Respondents : Mr.V.Vasanthakumar,
Additional Government Pleader
(Puducherry).

ORDER

[ORDER OF THE COURT WAS MADE

BY S.M.SUBRAMANIAM, J.]

The rejection of the claim of the writ petitioner for grant of benefit of Old Pension Scheme, is under challenge in the present writ petition.

2. All the petitioners were admittedly appointed from the year 2005 onwards. Some of the petitioners were appointed in the year 2006,



2007 and 2008 also. Admittedly, all the writ petitioners were appointed after the cut off date of 01.04.2003, the date on which the new Contributory Pension Scheme came into force.

3. The learned counsel for the petitioners relying on the Office Memorandum No.5705/05/2021-P&PW(B) dated 03.03.2023, Ministry of Personnel, Public Grievances and Pensions Department of Pension and Pensioners' Welfare, New Delhi dated 23.03.2023 states that the Government of India clarified that in respect of Recruitment Notification issued, prior to 22.12.2003, employees appointed after the cut off date of 01.01.2004 are also eligible to exercise their option for Old Pension Scheme.

4. Perusal of the Office Memorandum reveals that the judgment of the High Court and the Hon'ble Administrative Tribunals allowing such benefits are referred. There are subsequent judgments by the Full Bench of this Court that the employees appointed after the cut off date are not eligible for Old Pension Scheme. They are brought under the Contributory Pension Scheme (New Pension Scheme).



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5. In the present case, the Recruitment Notification issued on 02.12.2003. The selection processes were conducted and the petitioners were appointed respectively in the years 2005, 2006, 2007 and 2008. As on the date of Notification on 02.12.2003, the petitioners were not in service. The date of Recruitment Notification cannot be the criteria to seek pension benefits.

6. The Office Memorandum relied on by the petitioners are running counter to the New Pension Scheme, cut off date and the the Full Bench judgment of the High Court and the Supreme Court of India.

7. As far as the Union Territory is concerned, New Pension Scheme came into effect on 01.01.2004. In the present case, the notification was issued on 02.12.2003. In view of the fact that there are certain contradictions and inconsistencies in implementing the New Pension Scheme and the Office Memorandum is also not inconsistent with the decision of the Full Bench of this Court and Apex Court, we are granting



liberty to the petitioner to approach the Government of India, Ministry of Personnel Public Grievances and Pensioners, Department of Pension and Pension Welfare, New Delhi. In event of submitting any such appeal by the petitioner, the same may be decided on merits and in accordance with law.

8. With the above liberty, the Writ Petition stands disposed of.

However, there shall be no order as to costs.

(S.M.SUBRAMANIAM,J.) (K.RAJASEKAR,J.)

04-03-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



To

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