



W.P.No.926 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.03.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

Writ Petition No.926 of 2018

1.C.Venkateswaran
Grade III Librarian
S/o Chinnappa Gounder
1/277, Aruvangkattur,
Polavakalipalayam,
Gobichettipalayam 638 476,
Erode(DT).

2.V.Murali,
Grade III Librarian,
S/o R.Venkatesan,
R.D-18, Sampath Nagar,
Erode 638 011.

3.S.Vasanthi,
Grade III Librarian,
W/o G.Nandhakumar,
7, Kori Street,Nerijipettai 638 311.
Erode(DT).

4.G.Vijayapurirani,
Grade III Librarian,
D/o M.P.Ganesan,
Poosariur, Patlur,
Andhiyur, Erode 638 314.

5.K.R.Premalatha,



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Grade III Librarian,
W/o M.Arumugam,
4, Middle Street,
Arachalur 638 101,
Erode(DT).

6.C.Sudha,
Grade III Librarian,
W/o T.Ravichandran,
32/6, Mohana Apartments,
Pethampalayam Road,
Perundurai 638 052.

7.M.P.Subramaniam,
Grade III Librarian,
S/o V. Palanisamy,
22A, Machimuthupudur,
Dharapuram 638 657,
Tirupur(DT).

8.M.Govindaraj,
Grade III Librarian,
S/o R.Muthusamy,
Madathupalayam,
Thoppampatti,
Dharapuram 638 657,
Thirupur (DT).

9.K.Malleeswaran
Grade III Librarian,
S/o R.Kandiyannan,
135/1, Alagaburi Elavanatham (Po)
Arachalur (via) Erode(Dist) 638 101.



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10.A.Venkatachalam,
Grade III Librarian,
S/o R.Appachi,
101/200, Nallagoundanpudur,
Vairamangalam(Po),
Erode(Dist) 638 312.

.. Petitioners

/versus/

1.Government of Tamil nadu
Represented by Principal Secretary of School
Education Department,
Secretariat, St.George Fort,
Chennai 600 009.

2.The Director of Public Libraries,
737, Anna Salai,
Chennai 600 002.

3.The District Library Officer,
office of the District Library Officer,
Veerabathra Chetty Street,
Erode 638 003.

4.The District Library Officer,
Office of the District Library Officer,
Tirupur.

.. Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 2nd respondent in Rc.No.9096/A2/2015, dated 12.06.2017 and quash the same as illegal and consequently directing the respondents to include



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them under the old pension scheme instead of the new Contributory Pension Scheme in considering and counting 50% of our service as Village Librarian on consolidated pay based on the Tamil Nadu Pension Rules 1978 Rules Nos.11(2) and 12(2) G.O.Ms.No.183, E&F Department dated 18.07.2012 and G.O.Ms.No.113, E&F Department, dated 18.09.2015 prior to the date of promotion and regularization of Grade III Librarian dated 26.10.2006.

For Petitioners	:Mr. S.Nambi Arooran
For Respondents	:Mr.V.Manoharan, AGP for R1 to R4

ORDER

This Writ Petition has been filed seeking a direction to the respondents to include the petitioners under the Old Pension Scheme instead of the New Contributory Pension Scheme in considering and counting 50% of their service as Village Librarian on consolidated pay based on the Tamil Nadu Pension Rules, 1978.

2. Heard the learned counsel appearing for the petitioners and the learned Additional Government Pleader appearing for the respondents 1 to 4.



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3. On behalf of the respondents, their counter affidavit has been filed. During the course of hearing, the learned Additional Government Pleader appearing for the respondents has placed a copy of the judgment of a Full Bench dated 03.12.2019 in W.A.No.158 of 2016 and batch and contends that the issue involved in the present Writ Petition has already been decided by the Full Bench of this Court in the said order. He has also drawn an attention of this Court to the relevant paragraphs of the said judgment. Paragraph Nos.44 and 45 are extracted hereunder:-

“44. The aforesaid Judgment of the Honourable Supreme Court would squarely apply to this case. Merely because this Court has passed multiple number of orders in favour of some of the similarly placed persons, like the writ petitioners, it will not operate as res judicata or it will preclude the State Government from, questioning those orders, in a parallel or similar proceedings. In such circumstances, we are of the view that the orders, hitherto passed by this Court, both single Bench or the Division Bench will not operate as a bar for maintaining these writ appeals or writ petitions or those orders will not be considered as the one which laid down any binding precedent



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to be followed in other cases. An order, which was not passed in accordance with the statutory provisions, need not be followed by the Court at the instance of similarly placed persons.

45. In the light of the above, we answer the reference as follows:-

(i) Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O. Ms. No. 259 dated 06.08.2003.

(ii) Those government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.

(iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.

(iv) Those government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10 (a) (i) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed



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into regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.

(v) Those government servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension."

4. On perusal of the same, this Court is of the considered view that the petitioners are not entitled for the relief sought for in the present Writ Petition, in the light of the judgment of the Full Bench cited supra.

5. Accordingly, this Writ Petition is dismissed.

6. There shall be no order as to costs.

11.03.2024

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Index:yes/no
Speaking order/non speaking order
Neutral citation:yes/no



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To:

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Represented by Principal Secretary of School
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Secretariat, St.George Fort,
Chennai 600 009.

2. The Director of Public Libraries,
737, Anna Salai,
Chennai 600 002.

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BATTU DEVANAND,J.

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