



W.P.No.11241 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 13.12.2024

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.11241 of 2024

V.Raman

... Petitioner

Vs.

1. Union of India, rep. by its
Secretary to Government (Health)-Cum-Vice-Chairman,
Mother Theresa Post Graduate and Research Institute of
Health Sciences (Pondicherry) Society (MTPG&RIHS),
Government of Puducherry, Puducherry.
2. The Mother Theresa Post Graduate and Research Institute
of Health Sciences (Pondicherry) Society (MTPG&RIHS),
Rep. by its Member Secretary-cum-Dean
Indira Nagar, Gorimedu,
Puducherry – 605006.
3. Directorate of Health & Family Welfare Services,
Rep. by its Director,
Puducherry.
4. The Secretary to Government (Finance),
Cum-Commissioner,
Government of Puducherry,
Puducherry.

... Respondents



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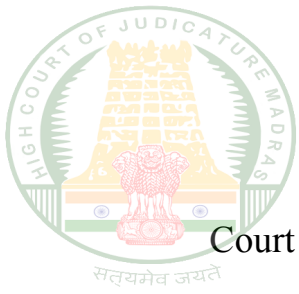
Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to convert the petitioners' provident fund, from CPF Scheme (Contributory Provident Fund) to GPF Scheme (General Provident Fund) and grant pension in accordance with CCS (Pension) Rules, 1972 in the light of the judgment of the Hon'ble Division Bench in W.P.No.28092 of 2015 and W.P.No.25354 of 2015 dated 05.01.2017 and the order of this Court in W.P.No.10993, 11015, 11027 of 2020 dated 23.04.2021 and also the order of this Court in W.P.No.27224 of 2021 dated 20.02.2024 and consequently direct the 4th respondent to allocate funds for the same.

For Petitioner : Mr.Stalin Abhimanyu

For Respondents : Mr.A.Tamilvanan
Additional Government Pleader

ORDER

This Writ Petition has been filed, seeking a direction to the respondents to convert the petitioner's Provident Fund from CPF Scheme (Contributory Provident Fund) to GPF Scheme (General Provident Fund) and grant pension in accordance with CCS (Pension) Rules, 1972 in the light of the orders of the Hon'ble Division Bench in W.P.No.28092 of 2015 and W.P.No.25354 of 2015, dated 05.01.2017 and the order of this



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Court in W.P.No.10993, 11015, 11027 of 2020, dated 23.04.2021 and also the order of this Court in W.P.No.27224 of 2021, dated 20.02.2024 and consequently direct the 4th respondent to allocate funds for the same.

2. The case of the petitioner is that, he was appointed before 13.12.2003, before the introduction of New Pension Scheme. But the respondents have covered him under non-pensionable CPF scheme without giving any option. Hence, the petitioner has given a representation to the respondents to implement GPF scheme. The representation is not considered till date. Hence, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that, this issue was already challenged before this Court in W.P.No.27224 of 2021, dated 20.02.2024, by the similarly placed persons and this Court has allowed the said writ petition by holding as follows:

“5. In the order made in W.P.Nos.10993, 11015 and 11027 of 2020, dated 23.04.2021, this Court has held as follows:



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"38. This Court also finds that when the petitioners were sought to be admitted to CPF scheme at the time of their recruitment/appointment in terms of the Contributory Provident Fund Rules (India), 1962 which is again Government of India Rules applicable to the same Government servants who opted for the GPF benefits, it cannot be gain said that the 2nd respondent being a society can legitimately claim insulation from applicability of Government scheme, namely, the GPF. When CPF scheme of the Central Government is made applicable, the claim of the petitioners herein gets narrowed down only to see whether the CPF or the GPF is applicable to these petitioners. In that view of the matter, there cannot be any other conclusion by this Court except to hold that as between the two Government of India schemes, GPF the alone scheme is applicable to these petitioners. The objection that the society being the employer of these petitioners as a consequence of which, their status would suffer diminution would have no legal sanctity or relevance for the ultimate consideration of the petitioners' claim.

39. In the conspectus of the above judicial discourse, this Court is of the considered view that in all fours these petitioners have made out a clear case for grant of the relief.

40. In the said circumstances, this Court finds that



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the impugned order passed by 5th respondents is liable to be set aside being illegal, as unreasonable, discriminatory and violative of Article 14 of the Constitution of India and also it is violative of the law laid down by the Hon'ble Supreme Court and this Court."

6. In view of the above, nothing much is needed to be discussed in this Writ Petition as the similarly placed persons in some other colleges coming under the same society and that the petitioners are also entitled to be placed under GPF scheme.

7. Hence, the Writ Petition is allowed. The respondents are directed to consider the representations of the petitioners and pass appropriate orders in the light of W.P.Nos.10993, 11015 and 11027 of 2020, dated 23.04.2021 by allowing the petitioners to be placed under GPF Scheme, within a period of eight weeks from the date of receipt of a copy of this order.

8. Insofar as the direction to the release of Funds is concerned, it is up to the Pondicherry Society for Higher Education (PONSHE) to approach the 5th Respondent to make an endeavour to get appropriate funds allocated in this regard. No costs. Consequently, connected miscellaneous petition is closed."



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Hence, the learned counsel for the petitioner prays to pass similar

orders in this writ petition also.

4. In view of the submission made by the learned counsel for the petitioner and decision of this Court stated supra, this Writ Petition is allowed. The respondents are directed to consider the representation of the petitioner and pass appropriate orders in the light of W.P.Nos.10993, 11015 and 11027 of 2020, dated 23.04.2021 by allowing the petitioner to be placed under GPF Scheme, within a period of eight weeks from the date of receipt of a copy of this order.

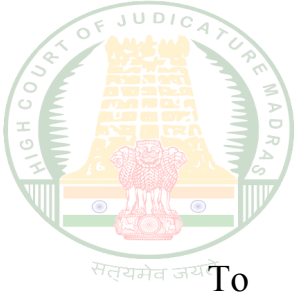
5. Insofar as the direction to the release of Funds is concerned, it is up to the Pondicherry Society for Mother Theresa Post Graduate and Research Institute of Health Sciences (MTPG&RIHS) to approach the 4th Respondent to make an endeavour to get appropriate funds allocated in this regard. No costs.

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Index : yes/no

Internet : yes/no



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To
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1. The Secretary to Government (Health)-Cum-Vice-Chairman,
Mother Theresa Post Graduate and Research Institute of
Health Sciences (Pondicherry) Society (MTPG&RIHS),
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Mother Theresa Post Graduate and Research Institute
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V.BHAVANI SUBBAROYAN, J.

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