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W.P.No.26961 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.26961 of 2023

1. T.Jayasankar
2. S.Venugopal
3. P.Krishnaraj
4. P.Moorthy
5. K.Ramalingam

...Petitioners

-Vs-

1. Union of India,
Rep. by Secretary to Government (Education),
Government of Puducherry,
Puducherry.
2. The Secretary to Government (Education)-cum-Vice Chairman,
Rajiv Gandhi School of Sports (RGSS),
Government of Puducherry,
Puducherry.
3. Director of School Education,
Member Secretary,
Rajiv Gandhi School of Sports (RGSS),
Government of Puducherry,
Puducherry.

...Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 2nd respondent to cover the petitioners under the General Provident Fund Scheme and grant pension in accordance with CCS (Pension) Rules, 2021.

For petitioners : Mr.V.Kamalakumar

For respondents 1 to 3 : Mr.R.Sreedhar
Additional Government Pleader

ORDER

This writ petition has been filed for direction to the 2nd respondent to cover the petitioners under the General Provident Fund Scheme and grant pension in accordance with Central Civil Services (Pension) Rules, 2021.

2. The petitioners were appointed in various posts during the year 1997. The Terms and conditions of services are governed by the Rules and Orders as communicated by the Government of Puducherry, based on Government of India instructions subject to the approval of the Governing Body of Rajiv Gandhi School of Sports (hereinafter called as RGSS). While



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being so, the 6th Governing Body meeting of RGSS was held on 09.04.1998 and resolved that regular staff of the school shall be covered under the General Provident Fund (GPF) Scheme. Later, in the 8th Governing Body Meeting held on 07.06.2005 it was resolved that Governing Body of the School to opt to Contributory Provident Fund (CPF) scheme in place of the existing GPF facilities, consequent to the Circular in O.M.No.G.19011/F2/2000(11) dated 16.05.2000 of Finance Department, Puducherry. The petitioners are the employees whose retirement benefit entitlements are subject to change due to said resolution. However, since all the petitioners were not even given the option before the said resolution. Therefore, all are covered by CPF and as such the petitioners submitted representations.

3. On perusal of the counter affidavit filed by the 3rd respondent revealed that the RGSS is a Society, functioning under the Directorate of School Education, Puducherry. After bifurcation of Directorate of School Education, the Directorate of Sports and Youth Affairs came into existence vide G.O.Ms.No.27 dated 28.08.2023. The petitioners were appointed only



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on adhoc basis and later they were regularized on temporary basis. After bifurcation functions of RGSS governed by clause (vii) of its rules and regulations. Accordingly, the Governing Body shall have the entire control and management of the business and affairs of the society. The petitioners were covered under GPF Scheme as per resolution of the 6th General Body Meeting held on 09.04.1998. However, the said resolution was not approved by the Government. In the meanwhile, Government of Puducherry had issued I.D.Note/Office Memorandum No.468/FD/A1/2022-23 dated 22.09.2022 to follow the CPF Scheme by all the autonomous bodies/Corporations/Societies/Boards etc., who are recipient of Grant-in-Aid from Government. Following the same, the 8th Governing Body meeting held on 07.06.2005 and accordingly they were switched over to CPF fund in lieu of the GPF Scheme. As per the Official Memorandum dated 14.04.2000 the Ministry of Home Affairs together with D.O. Letter dated 16.03.2000 of the Ministry of Finance Department of Expenditure stated as follows :



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"In view of the above, we have been advising autonomous Bodies under various Ministries/Departments of the Government of India to continue to follow the CPF Scheme or the Autonomous Bodies, if they so desire, may work out an annuity scheme through the Life Insurance Corporation of India based on voluntary contributions by the employees and without any contribution from the Government or the employees may join the pension scheme introduced by the Ministry of Labour for the PF subscriber. It may please be noted that introduction of pension scheme on GOI pattern to the employees of Autonomous Bodies should not be agreed to as a rule; any exception in this regard should be referred to this Department."

4. The petitioners did not challenge the resolution resolved by the Governing Body of RGSS in 6th and 8th meeting. They also did not challenge the Official Memorandum issued by the Government of Puducherry dated 22.09.2022 to follow the CPF scheme by all the autonomous bodies/Corporations/Societies/Boards etc.,. However, after a period of two decades from the date of resolution resolved by RGSS Governing Body, now the petitioners cannot say that they were not given option.



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5. Therefore, the direction sought for in this writ petition cannot be considered. Hence, this writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. No costs.

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Index : Yes/No
Speaking/Non Speaking Order
Neutral Citation : Yes/No
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