



W.P.No.27224 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 20.02.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P. No.27224 of 2021 and
W.M.P.No.28723 of 2021

- 1 S.Mohan Kumaramangalam
- 2 Biju Varghese
- 3 Krishna Prasad M.S.R
- 4 S.Robinson
- 5 T.Savadamuthu

... Petitioners

Vs.

- 1 Union of India
Rep. by its Secretary to Government
(Education)- Cum-Chairperson,
Pondicherry Society for Higher Education (PONSHE)
Government of Puducherry,
Puducherry.
- 2 Pondicherry Society for Higher Education (PONSHE)
Rep. by its Member Secretary,
PIPMATE Complex, Lawspet,
Puducherry 605 008.
- 3 Directorate of Higher and Technical Education,
Rep. by its Director
PIPMATE Complex,
Lawspet Puducherry 605 008.



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4 Perunthalaivar Kamarajar College of Education,
Rep. by its Principal,
Nehru Nagar Karaikal 609 605.

5 The Secretary to Government (Finance)
Government of Puducherry,
Puducherry.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st, 2nd and 3rd 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 this Court in W.P.No.10993 of 2020, W.P.No. 11015 of 2020 and W.P.No.11027 of 2020, dated 23-04-2021 and consequently direct the 5th respondent to allocate funds for the same

For Petitioners : Mr.Stalin Abhimanyu

For Respondents : Mr.R.Sridhar,
Additional Government Pleader
(Pondicherry)

ORDER

The petitioners have filed this Writ Petition, seeking a direction against the Respondents 1 to 3 to convert the petitioners' Provident Fund from Contributory Provident Fund (in short CPF) Scheme to General Provident Fund (in short GPF) Scheme and grant pension in accordance with CCS (Pension) Rules, 1972 in the light of the orders of this Court in W.P.Nos.10993, 11015 and 11027 of 2020, dated 23.04.2021 and consequently direct the 5th respondent to allocate the funds for the same.



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2. Mr.Stalin Abimanyu, learned counsel for the petitioners submitted that the petitioners were appointed before introduction of New Pension Scheme. However, they have been brought under the new pension scheme viz., CPF Scheme without giving them any option. When similarly placed persons approached this Court by way of filing various Writ Petitions in W.P.Nos.10993, 11015 and 11027 of 2020, this Court has passed Orders on 23.04.2021 by holding that GPF scheme is applicable to the petitioners therein.

3. Mr.R.Sridhar, learned Additional Government Pleader (Pondy) appearing for the Respondents submitted that the the petitioners in W.P.Nos.10993, 11015 and 11027 of 2020 are working in the Indira Gandhi College of Arts and Science, Kadirkamam, Puducherry, whereas the petitioners herein are employed in some other college viz., Perunthalaivar Kamarajar College of Education, Karaikal. Hence, they cannot claim benefits in the light of the orders passed in W.P.Nos.10993, 11015 and 11027 of 2020, dated 23.04.2021.



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4. In reply, the learned counsel for the petitioners submitted that both the Indira Gandhi College of Arts and Science, Kadirkamam, Puducherry and Perunthalaivar Kamarajar College of Education, Karaikal come under Pondicherry Society for Higher Education (PONSHE). Hence, the dictum laid down in W.P.Nos.10993, 11015 and 11027 of 2020, dated 23.04.2021 is applicable to the case of the petitioners.

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:

"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 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.



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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.

20.02.2024

Index: Yes / No
Speaking order / Non-speaking order
vum



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To:

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