



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.04.2024

Pronounced on : 30.04.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.34295 of 2017
and
W.M.P.Nos.38167 and 38168 of 2017

1. Pipmate Integrated Staff Welfare Association,
rep. by its General Secretary Mr.Gandhimohan,
No.14, Gandhi Street, Shanthi Nagar,
Lawspet, Puducherry-605 008.

2. A.Ramachandran,

3. N.Vilvanathan,

4.T.Chandra

5. S.Vadivelu,

... Petitioners

Vs.

1. The Chief Secretary,
Government of Puducherry,
Puducherry.

2. The Secretary to Government (Education) -cum- Chairman,
Pondicherry Institute of Post Metric Technical Education,
Government of Puducherry, Puducherry.

3. The Secretary to Govt.(Finance),
Government of Puducherry, Puducherry.



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4 The Member Secretary -cum- Director,
Directorate of Higher and Technical Education,
Pondicherry Institute of Post Metric Technical Education,
Puducherry.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records culminating in the impugned order dated 05.07.2017 bearing No.A/24/I/PIPMATE/ 2013/A1/ 747 passed by the Second Respondent and quash the same and direct the Respondents , to forthwith quantify, fix and disburse appropriate pension to the retired employees and Family pension to the deceased employees as per CCS (Pension) Rule 1972, who are appointed and continued under the GPF Scheme by applying the pension scheme to members of the First Petitioner Association including the petitioners 2 to 5 who were all appointed prior to 01.01.2001, as had been granted and extended to other similar Societies wholly funded by the Government of Puducherry with all consequently benefits.

For Petitioner : M/s.S.Ranjeni Ramadass

For R1 & R3 : Mr.M.Nirmal Kumar,
Government Advocate (Pondicherry)



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For R2 & R4

: Mr.T.M.Naveen

ORDER

The petitioners herein on an earlier occasion approached this Court by filing W.P.No.4716 of 2017 seeking the relief as under:-

“Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus or any other appropriate writ or order or direction in the nature of writ, direct the respondents to forthwith quantify, fix and disburse appropriate pension and pensionary benefits including family pension to the deceased employees, who are appointed and continued under the GPF Scheme by applying the Pension Scheme to the members of the petitioner Association and the aggrieved individuals who were appointed prior to 01.01.2001, as had been granted and extended to other similar Societies wholly funded by the Government of Puducherry.”

2. The said Writ Petition was disposed of at the admission stage by a learned Single Judge of this Court by order dated 24.02.2017, permitting the petitioners to submit a fresh representation to the respondents 2 and 4 along with previous representation dated 17.07.2015 and further directed the respondents 2 and 4 to consider the said representation on merits in accordance with law. It is pursuant to the said order passed by this Court, the



respondents 2 and 4 considered the said representation submitted by the petitioners and accordingly, the 2nd respondent passed the impugned order dated 05.07.2017 negating the claim made by the petitioners. It is aggrieved by the said order dated 05.07.2017, the petitioners once again approached this Court by filing the present Writ Petition to quash the said order and sought for a consequential direction to quantify, fix and disburse the appropriate pension to the retired employees and family pension to the deceased employees as per CCS (Pension Rules), 1972, i.e., for the employees who were appointed and continued under the General Provident Fund Scheme (hereinafter referred to as 'GPF Scheme' for short).

3. The 1st petitioner herein is an Association of employees of the 2nd respondent, who were appointed prior to 01.01.2001. The petitioners 2 to 5 herein have worked in the 2nd respondent Society and retired from service during the years 2015 and 2016. The basis for the claim made by the petitioners in the present Writ Petition is that the 2nd respondent Society introduced the GPF Scheme for the welfare of its employees in the year 1992 and the subscription to the said scheme was made compulsory for all the employees, after a continuous service of one year through letter dated



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20.02.1992 issued by the 2nd respondent. It is also further case of the petitioners that the said GPF Scheme introduced by the 2nd respondent was ratified in the 6th Governing Body meeting of the 2nd respondent held on 09.06.1992, and that the 2nd respondent in its 10th Governing Body meeting held on 12.08.1994 decided to continue the GPF scheme for its employees. It is also further case of the petitioners that the 2nd respondent in its 13th Governing Body meeting held on 29.09.1997 resolved to continue with the benefits like Gratuity, Pension, Family Pension etc., to its employees by obtaining specific exemption from the Employees' Provident Fund Authority. It is further case of the petitioners that the 2nd respondent in its 21st Governing Body meeting held on 03.07.2002 resolved to continue the GPF Scheme to its employees who were appointed up to 31.12.2000 and to bring in CPF Scheme in respect of the employees, who were appointed after 01.01.2001. Thus, it is by virtue of the GPF Scheme that was introduced by the 2nd respondent, the petitioners are claiming the relief of pension, family pension etc.,

4. Yet another ground on which the petitioners are seeking relief as sought for in this Writ Petition is that the autonomous bodies like the 2nd respondent which are wholly funded by the 1st respondent have extended



the benefit of pension and family pension under the relevant GPF Scheme to their respective employees and therefore, the petitioners are claiming parity on par with the employees of such autonomous bodies.

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5. The above said claim of the petitioners is negated by the respondents by passing the impugned order on the ground that the request of the petitioners was considered meticulously and proposal for payment of pension to the employees was sent to the Finance Department of the 1st respondent, but the 1st respondent refused on the ground that the extension of the pensionary benefits to the employees of the 2nd respondent Society is a policy decision which has to be decided by the Government and any such decision has to be taken comprehensively in respect of all the public sector undertakings and also on the ground that the Service Rules, as applicable in the Union Territory of Puducherry though adopted in Toto, such Rules relating to pension and General Provident Fund etc., were not made applicable to the 2nd respondent Society.

6. The sole basis for the petitioners to claim the benefit of payment of



pension as sought for in the present Writ Petition is the GPF Scheme that was introduced by the 2nd respondent to its employees through letter dated 20.02.1992, which was subsequently ratified by the 2nd respondent in its Governing Body meeting. The salient features of the scheme reads as under:-

“ 1. All employees borne on the establishment of the Society, after a continuous service of one year are to be compulsorily subscribed to the proposed General Provident Fund.

Employees, at their written request, may also be allowed to subscribe to the Fund at any time before completion of one year.

2. Subscription may be any sum (in whole rupees) subject to a minimum of six percent of emoluments and not more than his/her total emoluments. Emoluments for the purpose means Pay, Leave Salary or Subsistence Grant.

3. The Society shall pay to the credit of the account of an employee interest at such rate as may be determined for each year according to the method of calculation prescribed from time to time by the Society.

4. Temporary Advance/ withdrawals from the Fund are admissible for certain specific purposes.

5. The Deposit Linked Insurance Scheme provide an insurance cover to the subscriber without payment of any premium etc.,”

7. The above scheme as such does not provide for payment of pension at all. Further, it is also noticed that there was a proposal for introduction of



pension scheme to the employees of the 2nd respondent and the said issue has come up for consideration before the 29th Governing Body Meeting that was held on 28.01.2013 and in the said Meeting, it was considered as Item No.IV-15 and it was resolved as under:-

“Item No.IV-15:

Introduction of pension scheme to the staff of PIPMAE who are covered under GPF Scheme:

The Chairman sought clarifications from the Principal - PEC on the pension scheme operated by them. After an elaborate discussion among the members, the Governing Body approved the proposal for introduction of pension scheme to the staff (119 Nos.) of PIPMAE Society who are covered under GPF Scheme. The Chairman opined to submit a detailed proposal to Government covering the entire facts for obtaining G.O. for implementation of pension scheme and to create a pension fund from the Grant-in-aid released to PIPMATE for payment of pension and other retirement benefits to the GPF covered staff in the PIPMATE society.”

8. In spite of the above resolution, there was no order issued by the respondent no.1 Government for implementation of Pension Scheme and to create the pension fund nor any grant-in-aid was released by the respondent no.1 in favour of the respondent no.2, Except the GPF scheme that was introduced in the year 1992, which does not provide for pension, family



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pension etc.,. there is no other scheme that is brought to the notice of this Court. Though resolution was passed to approach the 1st respondent Government for appropriate orders providing for pension and creating provident fund no such orders are passed by the respondent no.1 as on date and no such order is brought to the notice of this Court which provide for payment of pension or creation of pension fund. The entire claim of the petitioner is basing upon an assumption that a GPF scheme was introduced by the 2nd respondent and therefore, certain amounts were deducted from the monthly salary paid to the petitioners from the month of February' 1992 and the petitioners are entitled for payment of pension. Merely because certain amounts are deducted from the salaries of the petitioners, that does not create any right for payment of pension. The said amounts were deducted in terms of the Scheme introduced in the 2nd respondent Society and admittedly, the petitioners were paid all the benefits under the Scheme on the retirement of the petitioners 2 to 5 herein and there is no dispute with regard to that.

9. Thus, this Court does not find any legal basis for the claim made by the petitioners for the relief as sought for in the Writ Petition. Further, a similar issue has also came up for consideration before a learned Division



Bench of this Court in W.P.No.1264 of 2019 and the learned Division Bench after finding fault with the order passed by the learned Single Judge where the claim similar to the claim being made by the petitioners herein was granted, observed at Paragraph No.20, which reads as under:-

“ 20. In view of the above categorical pronouncement of the Hon'ble Supreme Court, we are constrained to conclude that unless there is a pension scheme available and such pension scheme provides for payment of pension an employee of an Autonomous Body cannot claim pension. The mere fact that there were requests by the Managing Committee or the Governing Board of such Autonomous Body to permit it to have a pension scheme on par with the Government of India's Pension Scheme, will not enable its employees to claim pension as if they are Government Employees. In view of the above conclusions, we are constrained to interfere with the order of the Writ Court. At the same time, we must point out that the conduct of the officials of the Government of Puducherry as well as the persons in charge of the Management of the second appellant are far from satisfactory.”

10. The claim for relief on the ground that certain other similar, Public Sector Undertakings have extended similar benefit to its employees is concerned, it for such institutions of respondent no.1 to take such policy decisions, which obviously depend upon various factors including financial constraints. But, this Court while exercising its jurisdiction under Article 226



of the Constitution of India, cannot issue any Mandamus, in the absence of establishing violations of any fundamental right or legal right. The petitioner herein cannot also be permitted to compare them with the employees of other institutions to attract Articles 14 or 16 of the Constitution of India. Thus, the petitioners failed to substantiate their claim for grant of the relief as sought for nor able to establish violation of any of their fundamental, constitutional or legal right warranting interference of this Court under Article 226 of the Constitution of India.

11. In the light of the above, this Court does not find any merit in the Writ Petition and the same is accordingly dismissed. No costs. Connected Miscellaneous Petition, if any shall stand closed.

30.04.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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2. The Secretary to Government (Education) cum Chairman,
Pondicherry Institute of Post Metric Technical Education,
Government of Puducherry, Puducherry.

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MUMMINENI SUDHEER KUMAR, J.

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