



W.P(MD)No.2163 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.2163 of 2021 and
WMP(MD) Nos.5305, 1808 & 1809 of 2021

K.Deepa

... Petitioner

Vs

1.The Commissioner,
Government Data Centre,
Chennai-600025.

2.The District Elementary Educational Officer,
Kuzhithalai,
Karur District.

3.The Block Educational Officer,
Krishnarayapuram,
Karur -639102.

4.The Correspondent,
St.Joseph Women Government Aided Primary School,
Pa.Udaiyapatti,
Kadavur Union,
Karur District -639119.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the Impugned Order passed by the 1st Respondent vide his Proceeding sin Na.Ka. No.5251/Vu/2020, dated 30.09.2020 and quash the same as illegal, arbitrary and in violation of the principles of natural justice within the time frame as fixed by this Court.

For Petitioner	: Mr.G.Anto Prince.
For R1 to R3	: Mr. P.T.Thiraviam Government Advocate
For R4	: No Appearance

ORDER

The petitioner was appointed as a Secondary Grade Teacher at St.Antony's Primary School, Sengulam, Karur on 28.04.2003 under old pension scheme, pursuant to the proceedings of the District Elementary Educational Officer, Karur, dated 12.12.2002. The Commissioner, Government Data Centre, Chennai /the first respondent herein has issued a proceedings in Na.Ka.No.5251/Vu/2020, dated 30.09.2020, wherein, it is stated that as per G.O.(Ms) No.259, Finance



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(Pension) Department, dated 06.08.2003, contributory pension scheme is applicable for the teachers, who were appointed on or after 01.04.2003 and they should have been assigned with new CPS numbers and the contribution has to be deducted accordingly. The grievance of the petitioner is that the other candidates, who have been selected pursuant to the same proceedings, dated 12.12.2002 have been accommodated even before 01.04.2003, thereby they are getting pension benefits, however, for the delay in conducting the interview for the petitioner, she has been singled out and appointed only on 28.04.2003 and she was denied the pension benefits by referring the notification for Contributory Pension Scheme.

2.Today(18.12.2024), when this writ petition is taken up for hearing, the learned Government Advocate by referring to the order of the Full Bench reported in **2020(3) MJ 369** in ***Government of Tamil Nadu Vs.. R.Kaliyamoorthy*** and the judgment of this Court in a batch of writ petitions in WP(MD) No.151 of 2021 etc., dated, 16.11.2021 submits that the persons, who have been similarly placed and appointed



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in the same School have already been dealt with in the above batch of writ petitions and the similar request of the other teachers, who were appointed along with these petitioners were rejected by this Court, by order dated 16.11.2021 and the relevant portion from this Court is extracted as under:-

“8. The learned Special Government Pleader has also relied on the order of the Full Bench reported in 2020(3) MJ 369 (Government of Tamil Needy vs. R.Kaliyamoorthy), wherein, the Full Bench in paragraph 45 of the order has held as follows:-

“Those who are freshly appointed on or after 01.04.2003 are not entitled to pension in view of W.A.No.158 of 2016 etc., batch proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms.No.259 dated 06.08.2003.

“Those Government servants/employees appointed prior to 01.04.2003 whether on temporary or permanent basis in terms of Rule 10(a) (1) of Tamil Nadu State and Subordinate Service Rules will be entitled to get pension as per the Tamil Nadu Pension Rules, 1978.



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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 regularized before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.

Those Government servants who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10(a)(1) of Tamil Nadu State and Subordinate Service Rules before 01.04.2003 and absorbed 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.”

A same decision has also been taken in W.A.No1.158 of 2016 etc, batch. In view of the pension rules, they are entitled only Contributory Pension Scheme. This issue has already been settled by this Court.

9. The petitioners were appointed on 11.04.2003 and 30.04.2003 respectively and therefore, as per Tamil Nadu Pension Rules, and the orders of Hon'ble Full Bench of this Court, this writ petitions are liable to be dismissed. However, considering the difficulty expressed by the petitioners, a



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direction is issued to the respondents to recover the amount from the petitioner's salary for a sum of Rs.10,000/- per month instead of Rs.16,000/- per month.

3.It appears that following the principles laid down by the Honourable Full Bench of this Court reported in **2020(3) MJ 369** in ***Government of Tamil Nadu Vs.. R.Kaliyamoorthy***, the request of the similarly placed persons, who are appointed in a similar manner has been rejected. Therefore this Court is not inclined to entertain this writ petition.

4.Accordingly, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

18.12.2024

NCC:Yes/No
Index:Yes
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