



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2025

CORAM:

THE HONOURABLE MRS JUSTICE J. NISHA BANU

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.P.No.535 of 2025 and

WMP No.634 and 635 of 2025

1. S.Kannaiyan

2. S.Jothibai

3. A.Rajasekaran

4. R.Thamizharasi

5. T.S.Selvaraju

6. V.Vanchimuthu

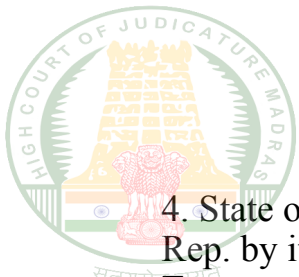
...Petitioners

Vs.

1. State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Finance Department,
Fort St. George, Secretariat,
Chennai 600 009.

2. State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Rural Development and Panchayat Raj Department
Fort St. George, Secretariat,
Chennai 600 009.

3. State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Fort St. George, Secretariat,
Chennai 600 009.



4. State of Tamil Nadu,
Rep. by its Secretary to Government,
Transport Department
Fort St. George, Secretariat,
Chennai 600 009.

5. The Commissioner of Treasuries and Accounts,
Perasiriyar Anbalagan Maaligai,
571, Anna Salai, Nandanam,
Chennai 600 035.

6. The Commissioner of Transport
and Road Safety
Guindy, Chennai 600 032.

7. The Director of Rural Development and
Panchayat Raj,
Panagal Building, Saidapet,
Chennai 600 015.

8. The District Collector,
Coimbatore District,
Coimbatore.

9. The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.

10. The Regional Transport Officer,
The Regional Transport Office,
Elayamuthur Road,
Udumalpet 642 126,
Tiruppur District.

11. The Chief Educational Officer
Namakkal District
Namakkal.

12. The Chief Educational Officer,
Tiruppur District,
Tiruppur.



13. The Block Development Officer (BP)
Pollachi (North)
Coimbatore District.

14. The Headmaster,
Government Girls Higher Secondary School,
Kalappa Naickenpetti 637 407,
Namakkal District

15. The Headmaster,
Government Higher Secondary School,
Kethanur 641 671,
Tiruppur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India to issue a Writ of Declaration to declare the proviso to impugned Rule 2 of Tamil Nadu Pension Rules, 1978, as notified in G.O.No.259, Finance (Pension) Department dated 06.08.2003 and Sub Rule(3) of Rule 4 of General Provident Fund (Tamil Nadu) Rules as notified in G.O.No.304, Finance Department dated 27.05.2004 as illegal and consequently to direct the respondents to shift the enrolment of the petitioners in Contributory Pension Scheme, 1978 on the file of the 1st respondent within a time frame to be fixed by this Court.

For Petitioners: Mr.S.Nedunchezhiyan

For Respondents: Mr.M.Rajendran, Addl.Govt.Pleader
for all respondents

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ORDER

(Order of the Court was made by **J.NISHA BANU, J.**)

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This writ petition is filed praying to declare the proviso to impugned Rule 2 of Tamil Nadu Pension Rules, 1978, as notified in G.O.No.259, Finance (Pension) Department dated 06.08.2003 and Sub Rule(3) of Rule 4 of General Provident Fund (Tamil Nadu) Rules as notified in G.O.No.304, Finance Department dated 27.05.2004 as illegal and consequently to direct the respondents to shift the enrolment of the petitioners in Contributory Pension Scheme to that of the previous Pension Scheme as per the Tamil Nadu Pension Scheme to that of the previous Pension Scheme as per the Tamil Nadu Pension Rules, 1978 on the file of the 1st respondent within a time frame to be fixed by this Court.

2. Today, when the matter is taken up for hearing, Mr.M.Rajendran, learned Additional Government Pleader appearing for the respondents produced the copy of the order passed in W.P.Nos.11497 & 18132 of 2024 dated 04.02.2025. He submitted that a similar order may be passed in the present writ petition also, as the facts of the present case is identical to that of the aforementioned writ petitions and hence, prayed for dismissing the writ petitions.

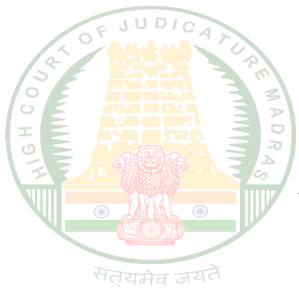
3. This Court perused the common order passed in W.P.Nos.11497 & 18132 of 2024, dated 04.02.2025, wherein the Division Bench of this Court has



dismissed the writ petitions by holding that the legislative competence and the power to amend the pension Rules under Schedule 7 List III entry 42 would reiterate the powers conferred in the State Government. Therefore, introduction of New Pension Scheme is a policy decision of the Government and the Government employee cannot challenge the policy decision taken, since the petitioners therein have accepted their service conditions on the date of their respective appointment to avail the benefits under the New Pension Scheme i.e. Contributory Pension Scheme and failed to entertain the writ petitions. The relevant paragraphs are extracted hereunder:

“2. Admittedly, the Writ Petitioners were appointed into the Tamil Nadu Government Services during the year 2007 onwards. However, the present Writ Petition has been filed challenging the Contributory Pension Scheme came into force pursuant to the policy decision taken by the Government by amending Rule 2 of Tamil Pension Rules, 1978 and Sub Rule (3) of Rule 4 of General Provident Fund (Tamil Nadu). The Government of India implemented New Pension Scheme namely Contributory Pension Scheme and the Government of Tamil Nadu also implemented the said Contributory Pension Scheme by amending Rule 2 of Tamil Nadu Pension, 1978 and as notified in G.O.Ms.No.259, Finance (Pension) Department dated 06.08.2003. Accordingly, the Tamil Nadu Pension Rules shall not apply to Government servants appointed on or after 1st April, 2003, to services and posts in connection with the affairs of the State, which are borne on pensionable establishments, whether temporary or permanent.

3. The entertainability of the present Writ Petition is to be considered by this Court. An aggrieved person may institute a Writ proceedings challenging the impugned amendment relating to service conditions. Question arises whether Writ Petitioners are aggrieved



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persons, so as to entertain the present Writ Petition.

4. The service between the employees and the Government is contractual in nature. The service conditions as on the date of appointment of an employee, would be applicable and binding in the present case. Admittedly the Writ petitioners were appointed from the year 2007 onwards. Therefore, the petitioners are eligible to claim service benefits, which all are available to them under the Rule as on the date of their respective appointment into the Government service. With reference to the impugned amendment, the Tamil Nadu Pension Rules were amended long prior to the appointment of the Writ Petitioners into Government service. Therefore, they cannot be construed as an aggrieved person, with reference to the impugned amendment notified in G.O.No.259, Finance (Pension) Department dated 06.08.2003.

5. Pertinently, the petitioners on their appointment agreed the service conditions and joined into Government service. Once the appointee agreed the service conditions and joined into Government services, they are estopped from claiming any other service benefits, which all are not available to them on the date of their appointment. Therefore, the present challenge made with reference to the amendment effected prior to the appointment of the petitioner is not entertainable. Thus, the petitioner cannot be construed as an aggrieved person in the eyes of law.

6. Thirdly, the petitioners have accepted the Contributory Pension Scheme, on the date of their appointment. Therefore, they are entitled to claim benefits under the Contributory Pension Scheme i.e., New Pension Scheme and they cannot challenge the amendment, which was effected prior to their date of appointment and more specifically these petitioners were not in Government service as on the date of issuance of the amendment to the Tamil Nadu Pension Rules in the year 2003. Having accepted the service conditions on the date of appointment, the petitioner cannot now turn around and challenge the amendment effected prior to the date of appointment and to grant the benefits of old pension scheme under the Tamil Nadu Pension Rules, 1978.



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7. *Thus, the very challenge made in the present Writ Petitions is not entertainable. Therefore, the question of considering the issues on merits would not arise at all. The legislative competence and the power to amend the pension Rules under Schedule 7 List III entry 42 would reiterate the powers conferred on the State Government. Introduction of New Pension Scheme is a policy decision of the Government and the Government employee cannot challenge the policy decision taken, since the petitioners accepted their service conditions on the date of their respective appointment to avail the benefits under the New Pension Scheme i.e, Contributory Pension Scheme.*

8. *Thus, we do not find any prima facie point to entertain these Writ Petitions. Accordingly, the Writ Petitions stand dismissed. Consequently, the connected Miscellaneous Petitions, if any, are closed. No costs.”*

4. In view of the earlier order passed by this Court in W.P.Nos.11497 & 18132 of 2024, dated 04.02.2025, this Court is of the view that the petitioners are not entitled to the claim raised by them in the writ petition. Hence, we are not inclined to entertain the present writ petition. Accordingly, this writ petition stands dismissed. Connected miscellaneous petitions are closed. There shall be no order as to costs.

(J.N.B.J.)

(M.J.R.J.)

23.06.2025

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To:

1. The Principal Secretary to Government,
Finance Department,
Fort St. George, Secretariat,
Chennai 600 009.
2. The Principal Secretary to Government,
Rural Development and Panchayat Raj Department
Fort St. George, Secretariat, Chennai 600 009.
3. The Principal Secretary to Government,
School Education Department,
Fort St. George, Secretariat,
Chennai 600 009
4. The Secretary to Government,
Transport Department
Fort St. George, Secretariat,
Chennai 600 009.
5. The Commissioner of Treasuries and Accounts,
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8. The District Collector,
Coimbatore District,
Coimbatore.



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9. The Director of School Education,
DPI Campus, College Road,
Chennai 600 006

10. The Regional Transport Officer,
The Regional Transport Office,
Elayamuthur Road, Udumalpet 642 126,
Tiruppur District.

11. The Chief Educational Officer
Namakkal District, Namakkal.

12. The Chief Educational Officer,
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J.NISHA BANU, J.
AND
M.JOTHIRAMAN, J.

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