



W.P.No. 10561 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.03.2025

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.10561 of 2020

1. C. Swamidoss(deceased)

2. Mrs. A.Alagurathi

W/o C. Swamidoss

(Substituted as Lrs of deceased

C. Swamidoss as per order dated

03.10.2024 in W.M.P.No.23169 of 2020

in W.P.No.10561 of 2020 by CKJ)

.. Petitioner

Versus

1. The State of Tamil Nadu,

Rep by the Secretary to Government,

Education Department, Secretariat, Chennai 600 009.

2. Joint Director of Collegiate Education,

Department of Collegiate Education,

Madurai Region, Madurai.

3. Accountant General (A &E)

361, Anna Salai, Teynampet,

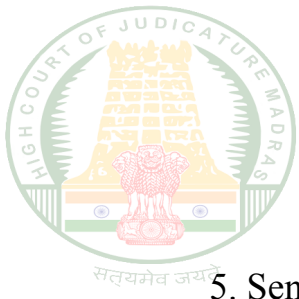
Tamil Nadu, Chennai 600 018.

4. Accounts Officer,

Office of the Accountant General

(Accounts & Entitlements)

361, Anna Salai, Teynampet, Tamil Nadu, Chennai 600 018.



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5. Senior Deputy Accountant General (Pension)

Office of the Accountant General

(Accounts & Entitlements)

361, Anna Salai, Teynampet,

Tamil Nadu, Chennai 600 018.

...Respondents

Prayer: This petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the order dated 09.09.2019 bearing No.AG (A&E)/ Legal Cell/WP 21405/2009/2019-20/ passed by the 5th respondent and to quash the same and to direct the Respondents to sanction pension in favour of the petitioner w.e.f 05.06.1981 by granting relaxation in terms of para 4 of G.O.Ms.37 dated 05.01.1983 with all consequential benefits and arrears of pay and allowances together with interest at 12% p.a and pass orders.

For Petitioner : Mrs.Y. Kavitha
for Giridhar and Sai Associates

For Respondents 1 and 2 : Mr. S. Arumugam,
Government Advocate

For Respondents 3 to 5 : Mr.P. Manorajan
Standing counsel

ORDER



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WEB COPY This petition is filed to Writ of Certiorarified Mandamus calling for the records relating to the order dated 09.09.2019 bearing No.AG (A&E)/ Legal Cell/WP 21405/2009/2019-20/ passed by the 5th respondent and to quash the same and to direct the Respondents to sanction pension in favour of the petitioner w.e.f 05.06.1981 by granting relaxation in terms of para 4 of G.O.Ms.37 dated 05.01.1983 with all consequential benefits and arrears of pay and allowances together with interest at 12% p.a and pass orders. .

2. Mr.C.Swamidoss who has initially filed the writ petition in the year 2020 passed away due to which her wife/ A.Alagurathi was impleaded in this writ petition..

3. The facts of the case is that the deceased/C.Swamidoss joined as a Head Clerk (non-teaching staff) on 05.08.1963 at Ayyanadar Janagiammal College, Sivakasi which is an Aided College under Government of Tamil Nadu and he resigned from the service on 14.08.1978 on medical grounds. The grievance of the

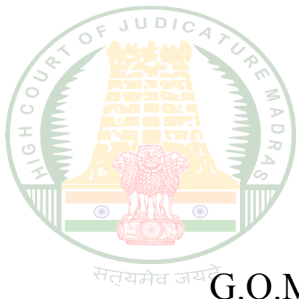


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deceased/C.Swamidoss is that he is entitled for pension and he approached the respondents and gave representation several times, pursuant to which the 3rd respondent on 26.03.2007 passed an order stating that he is not entitled for pensionary benefits as he had resigned from the service after the crucial date ie 01.04.1976. Aggrieved over the same the deceased/C.Swamidoss filed W.P.No.21405 of 2009 and this Court vide order dated 07.06.2018 allowed the writ petition. When this being the case, the 5th respondent passed the present impugned order wherein the claim of the deceased/C.Swamidoss for grant of pension was rejected. Hence, this petition.

4. The learned counsel for the petitioner submitted that the Government introduced Liberalised Pension Scheme to the retired teaching staff of aided colleges. Subsequently G.O.Ms.No.2213 dated 11.10.1976 was passed extending the benefit to non-teaching staff of aided colleges, who retired from service with effect from 01.04.1916 and the crucial date was fixed on 01.04.1976. As per G.O.Ms.No.1015,01 liberalised pension scheme was extended to the incumbents who had resigned from service. Subsequently, the Government has passed



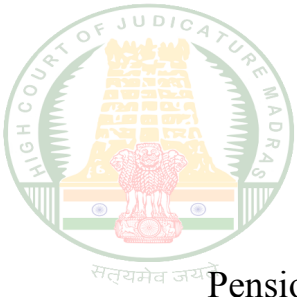
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G.O.MS.No.37 dated 05.01.1983 which provides that the incumbents who resigned before the crucial date 01.04.1976 were also entitled for pension with effect from 05.06.1981. The learned counsel for the petitioner further contend that as per G.O.Ms.No.1015, dated 05.06.1981 and G.O.Ms.No.37, dated 05.01.1983 the deceased/C.Swamidoss is entitled to get pensionary benefits with effect from 05.06.1981 as he resigned from service with effect from 14.08.1978.

5. The learned counsel for the petitioner also submitted that the deceased/petitioner was a non-teaching staff and he resigned from the job and it was accepted by the appointing authority, since there was no provision to pay pension at that point of time, he failed to make a claim. Subsequently, the Government introduced Liberalised Pension Scheme. Since the Liberalised Pension Scheme was not applicable to those incumbents who have resigned prior to the introduction of the said scheme, the Government passed various orders to protect the interest of the staff members. Hence, prays to allow this petition.

6. The learned standing counsel appearing for the respondents filed a counter, wherein it was stated that the extent rule provisions under the



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Pension Scheme for the staff of Non-Teaching Government Educational Institutions do not allow for the grant of pension to the petitioner. It was further stated in the counter affidavit that the Joint Director of Collegiate Education/the First Respondent has rejected the representation dated 08.06.2009 made by the deceased/C.Swamidoss to relax the rule provisions to grant pension to him. They have further stated that they have considered afresh the claim of the deceased/C.Swamidoss, relaxing the Rules, afresh in the light of the observations made in the order dated 07.06.2018 of this Court in W.P.No.21405 of 2009 and rejected the same elaborating the reasons through the letter dated 09.09.2019 addressed to the petitioner.

7. I have given anxious consideration to either side submissions and perused the materials available on record.

8. Before advertng further it would be appropriate to go through G.O.Ms.No.1015, Education Department, dated 05.06.1981, regarding grant of pension to the staff of Teaching and Non Teaching staff of aided technical institution. The relevant portion of the G.O.Ms.No.1015, Education Department, reads as under:-

"Copy of G.O.Ms.No.1015, Education, dated 5th June



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1981.

Subject: Pension for staff of non – Government Educational Institutions - (i) Non - teaching staff of Aided Schools and Colleges, (ii) Teaching and Non - teaching staff of Aided Technical Educational Institutions; & (iii) Staff of Regional Engineering College, Tiruchirappalli - Those who retired before the respective Crucial dates - Pension sanctioned from date of order.

The crucial dates from which the Pension Scheme for staff of non-Government Educational Institution was introduced for various categories of staff in non-Government Educational institutions are as follows:-

ORDER:

S.No	Particulars	Education G.O.(Ms) No. and date
I(a)	Teaching staff of aided and Local body schools ("Aided" for purposes of retirement benefits always includes recognized "un-aided" schools also, including Anglo Indian Schools).	1.4.1955 1109/31.5.1958
(b)	Teaching staff of Non-Government schools in the Transferred area.	1.1.1962 853/16.4.1962
II	Non-Teaching staff of	1.4.1972



	<i>aided schools</i>	<i>627/11.5.1972</i>
III.(a)	<i>Aided colleges- Teaching staff</i>	<i>1.4.1962 1671/15.7.1963</i>
(b)	<i>Aided colleges - Non Teaching staff</i>	<i>1.4.1976 2213/11.10.1976</i>
IV(a)	<i>Aided Technical Educational Institutions - Teaching staff</i>	<i>1.1.1975 650/23.4.1975</i>
(b)	<i>Aided Technical Educational Institutions - Non Teaching Staff</i>	<i>1.4.1977 74/12.1.1978</i>
V	<i>Regional Engineering college, Trichirappalli (all staff)</i>	<i>1.1.1975 1777/31.7.1977</i>

2. So far as teaching staff of non - Government schools and Aided Colleges are concerned - items i(a) and (b) ; and (iii) (a) under paragraph 1 above - teachers who retired before the respective crucial dates have been given pension with effect from 1st March 1968 (as per G.O.Ms.No.1505, Education, dated 24th September 1968), while the teachers who retired from the schools in the Transferred area before 1st November 1956 are getting pension only with effect from 1st May 1977 with reference to G.O.Ms.No.1394, Education, dated 17th June 1977.

3. So far as (i) non - teaching staff of Aided schools and colleges; (ii) Teaching and non-teaching staff of



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Aided Technical

Education Institution; and (iii) staff (teaching and non - teaching) of Regional Engineering College, Tiruchirappalli are concerned - items (ii), (iii) (b), (iv) (a) and (b) (v) under paragraph 1 above - Family Pension benefits in respect of cases of Family Pension cases which occurred before the respective crucial dates have already been extended from 1st April 1979 as per G.O.Ms.No.465, Education, dated 13th March 1980. The Government now direct the benefits of Pension (under the non - Government Teacher's Pension Scheme) be also extended with effect from the date of this order to persons belonging to the above three categories of staff who retired at any time before the respective crucial dates. No arrears of Pension shall be paid for any period prior to the date of this order.

4. Full retirement benefits as admissible under the Liberalised Pension rules have so far not been extended to the teaching and non - teaching staff of Aided Technical Educational Institutions and the question of such extension is separately under consideration. Pending such extension staff who retired from Aided Technical Educational Institutions before 1st January 1975 1st April 1977 will get from the date of this order the benefit of Pension only and not DCR Gratuity. The other two categories (Viz. non - teaching staff of Aided schools and colleges and staff of Regional Engineering college, Tiruchirappalli) who retired before the crucial dates will however be eligible for pension as well as Death-cum-Retirement Gratuity.

5. The calculation of Pension will be only on the basis of the pay last drawn - during the last 10



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months or 12 months or 36 months service, as the case may be depending on the date of retirement of the persons concerned. The Death-cum- Retirement Gratuity (where admissible) will however be calculated on the basis of the pay last drawn. The minimum Pension admissible pension sanctioned in future will automatically be admissible (As corrected in letter dated 2nd January 1982).

6. On the analogy of the orders in Government Memorandum No.21344/Ey 68-5, Education, dated 18th November 1968, G.O.Ms.No.1483, Education, dated 27th August 1973 and G.O.Ms.No.1196, Education, dated 15th July 1975 the following further clarifications are also issued.

(i) The minimum pension admissible may be sanctioned on the basis of collateral evidence even where service books are not available and where no records are available to verify the service particulars.

(ii) Pension can be sanctioned even in cases where the incumbents had "resigned" since they could not have foreseen the institution of Pension Scheme at the time they resigned.

(iii) In the case of invalidation on Medical grounds pension can be sanctioned even in cases where the procedure prescribed in the Tamil Nadu Pension code had not been followed.

7. The authorities who case sanction pension with reference to these orders will be the same as those sanctioning pension to the respective categories who retired after the crucial dates.



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8. The expenditure will be debited to the relevant heads of account to which the expenditure on retirement benefits to the particular kind of non - Government educational Institution is debited.

9. Later on, the Government have passed G.O.Ms.No.37, Education Science and Technology Department, dated 05.01.1983, for grant of pension to the Teaching staff of aided colleges who had resigned before 05.06.1981. G.O.Ms.No.37, Education Science and Technology Department, dated 05.01.1983 reads as under:-

ABSTRACT

Pension to Staff Non-Government Educational Institutions Teaching Staff of Aided and Local Body Schools and teaching staff of aided Colleges who resigned before the relevant crucial dates - Eligibility for Pension from 5-6-81 clarificatory orders issued.

*DEPARTMENT OF EDUCATION SCIENCE
AND TECHNOLOGY
G.O.Ms.No.37 Dated:5.1.1983*

ORDER:

The crucial dates from which the pension scheme for staff of non government educational institutions was introduced for various categories of staff in non - govt. educational institutions and the dates from which those who retired before the crucial dates were allowed pension are as follows.



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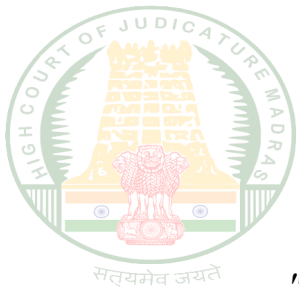
		<i>Date from which pension scheme was introduced</i>	<i>Education G.O.Ms.No. Date</i>	<i>Those who retired before crucial dates allowed pension from</i>	<i>Edu.G.O. No. & Date</i>
I	a) Teaching Staff of Aided and Local body (Aided for purpose of retirement benefits always includes recognized "on aided" Schools also Including Anglo Indian Schools)	1-4-55 1.11.56 to 1.1.62 Before 1.11.56	1109 ----- 31.5.58 853 ----- 16.4.62	1.3.68 1.3.68 1.5.77	1505 ----- 24.9.68 24.4.68 1394 ----- 76-77
ii	Non-teaching staff of Aided Schools	1.4.72	627/11-5-72	5.6.81	1015 ----- 5.6.81
iii a	Aided Colleges Teaching Staff	1.4.62	1671 ----- 15.7.63	1.03.68	1505 ----- 24.09.68
	(b) Aided Colleges - Non Teaching Staff	01.04.1976	2213 ----- 11.10.1976	5.6.81	1015 ----- 5.6.81
IV	(a) Aided Technical	1.1.75	650 -----	5.6.81	1015 -----



	Education Institutions Teaching Staff		23.4.75		5.6.81
	(b) Aided Technical Educational Institutions Non-Teaching Staff	1.4.77	74 ----- 12.1.78	5.6.81	1015 ----- 5.6.81
V	Regional Engineering College Tiruchirappalli (all Staff	1.1.75	1777/31-7-77	5.6.81	1015 ----- 5.6.81

2. Many beneficiaries under G.O.Ms.No.1505 dt 24.9.68 would have found it difficult to produce service particulars to claim pension. It is likely that in some cases service registers might have been either lost or misplaced. In very many cases it would be even difficult to check the service details and then calculate pension eligibility due to sheer lapse of time. To obviate hardship and difficulties the authorities sanctioning pension were in Govt. memo No.21344/E6/68-5, Education, dt. 18/11.1968) authorised to sanction the minimum pension in all such cases where Teachers Service registers are not available or it is difficult to verify service particulars of the applicant.

3. When authorising sanction of pension from 1.3.68 (under G.O.Ms.No.1505/24-9-68) to Arumariammal who served as teacher in non - Government schools from 1912 to 1928 in G.O.Ms.No.1196 Education, dt. 15.7.75, the Government enunciated the following general principal regarding admissibility of pension to Persons who had resigned before the relevant crucial dates:-



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"At the time the teacher "resigned" from service no one could have foreseen the institution by the Government of any pension scheme for teachers in non-Government service and it did not matter then whether one "resigned" from service or "left" service or got one-self discharged as physically unfit on production of Medical certificate, It is considered hard to deny pension in such cases even though such teachers may technically be said to have "resigned". It is in this spirit that instructions were issued in Memo.No.21344/E6/685 Education, dt.18.11.1968 allowing the sanction of minimum pension even in cases where records like "Teachers" service Registers are not available of where it is difficult to verify the service particulars of Teachers".

4. Even in cases of "resignation" after the crucial dates, the Government have in a number of hard cases of particular individuals, relaxed the stipulations and allowed retirement benefits to "resigned" teachers also.

5. When Pension was sanctioned form 5.6.81 to non - teaching staff etc., who had retired before the crucial dates, the following specific orders were issued.

(i) The minimum pension admissible may be sanctioned on the basis of collateral evidence even where service books are not available and where no records are available to verify the service particulars.

(ii) Pension can be sanctioned even in cases where the incumbents had "resigned" since they could not have foreseen the institution of pension scheme at the time they "resigned". (emphasis supplied)

(iii) In the case of Invalidation of Medical grounds Pension can be sanctioned even in cases where the procedure prescribed in the Tamilnadu Pension code had



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not been followed (G.O.1483, Edn./27.8.73).

6. As regards those who retired before the crucial dates, In the case of non-teaching staff etc, who were given Pension benefits in para 6 of the G.O.No. 1015/5.6.1981 permitting the allowing of pension to 'Resigned' persons also; but there are no such general instructions permitting the allowing of pension to "Resigned" teachers (who were given pension benefits from

1.3.68 as per G.O.Ms.No. 1505/dt.24.9.1968). Orders are however being issued in individual cases of such teachers who had "resigned" before the crucial dates. In this context, the Accountant General has asked for a clarification on the following two points:-

(i) Whether it is the intention of the Government to allow pension to all the teaching staff of Aided and Local Body Schools and Teaching Staff of Aided College who had "Resigned" from service prior to the respective crucial date/dates of the respective Government Order introducing pensionary benefits?

(ii) and if so, whether they are eligible to draw pension from 1.3.1968 with reference to Government Order Ms.No. 1505, Edn., dated 24.9.1968 read with Government Memo.No. 21344/E.8768-5, Edn., dated 18.11.1968.

7. The Government now clarify point (i) above in the affirmative i.e., the staff in question may be sanctioned pension by the respective authorities competent to sanction pension (without the need for any specific orders of any higher authority or of Government condoning the "resignation" in each individual case)



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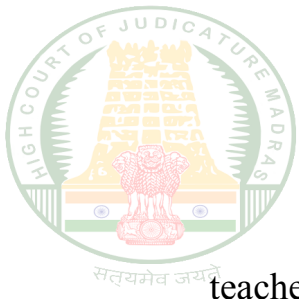
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8. *However, as regards point (ii) above, the Government direct that the persons benefited with reference to the above clarification need be allowed pension only from 5.6.81 and that no arrears need be allowed for period prior to 5.6.81.*

9. *This order issued with the concurrence of the Finance Department vide its U.O.No.144586/Pen 82-1, dt.10/14.12.82.*

10. This writ petition revolves around two aspects. First one is Whether the deceased/C.Swamidoss is eligible for pension as per G.O.Ms.No. 37 Education Science and Technology Department, dated 05.01.1983. The second one is that whether the records relating to the order dated 09.09.2019 bearing No.AG (A&E)/ Legal Cell/WP 21405 2009/2019-20 passed by the 5th respondent which is the subject matter of this writ petition requires interference by this Court or not.

11. With regard to the first point, whether the petitioner is eligible for pension as per G.O.Ms.No. 37 Education Science and Technology Department, dated 05.01.1983, it is made clear in paragraph No.4 that the the Government have in a number of hard cases of particular individuals, relaxed the stipulations and allowed retirement benefits to "resigned"



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teachers also. But, in this case inspite the deceased/C.Swamidoss has given a representation to the Second Respondent that they have not considered the plea of the petitioner and rejected the same vide order dated 26.03.2007 wherein they have stated that as per G.O.Ms.No.1015 Education dated 05.06.1981 and G.O.Ms.No.37 dated 05.01.1983 the crucial date which the pension scheme for Non teaching staff of aided college is 01.04.1976 whereas Sri C.Swamidoss, formerly Hc resigned as on 14.08.78 after the crucial date i.e 01.04.1976. Hence, he is not eligible for pensionary benefits.

12. With regard to the second point, whether the records relating to the impugned order dated 09.09.2019 bearing No.AG (A&E)/ Legal Cell/WP 21405 2009/2019-20 passed by the 5th respondent needs no interference by this Court. On a perusal of the impugned order it is seen that in G.O.37 Education Department dated 05.01.1983, it has been stated that the issue of grant of pensionary benefits to resigned employees has been settled at rest by the Supreme Court of India in the case of Sri.C.Jacob (2008 (10)SCC 115) whereby the claim for pension in respect of a resigned employee even after rendering 10 years of



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qualifying service was declined by a comprehensive order and they have rightly rejected the claim of the deceased/petitioner. Hence, the observation made in the impugned order is perfect and the same does not require interference.

13. In view of the above facts, it is made clear that the contentions of the petitioner is devoid of merits and the same cannot be accepted by this Court. Hence, this petition deserves to be dismissed. Accordingly this petition is dismissed. No order as to costs.

03.03.2025

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
smn

To
1. The Secretary to Government,
Education Department,
Secretariat, Chennai 600 009.



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2. Joint Director of Collegiate Education,
Department of Collegiate Education,
Madurai Region, Madurai.

3. Accountant General (A &E)
361, Anna Salai, Teynampet,
Tamil Nadu, Chennai 600 018.

4. Accounts Officer,
Office of the Accountant General
(Accounts & Entitlements)
361, Anna Salai, Teynampet, Tamil Nadu, Chennai 600 018.

5. Senior Deputy Accountant General (Pension)
Office of the Accountant General
(Accounts & Entitlements)
361, Anna Salai, Teynampet,
Tamil Nadu, Chennai 600 018.



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V.BHAVANI SUBBAROYAN, J.

smn

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