



W.P.Nos.11497 & 18132 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.P.Nos.11497 & 18132 of 2024

1.V.Akbar Ali
2.K.Radhamani
3.S.Sarojini
4.K.V.Ambika
5.R.Ramani Devi
6.C.Ravi

... Petitioners in W.P.No.11497 of 2024

1.M.Mangayarkarasi
2.K.Rajeswari
3.M.K.Ravichandran
4.V.Balasubramani
5.P.Santhi
6.S.Sivakumar
7.A.Bhadarunisha Begum
8.T.Rajendran
9.A.Ramesh

... Petitioners in W.P.No.18132 of 2024

Vs.

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

2.State of Tamil Nadu,
Rep. By its Principal Secretary to Government,



W.P.Nos.11497 & 18132 of 2024

WEB COPY

School Education Department,
Fort St.Gerge, Secretariat,
Chennai – 600 009.

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

4.The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.

5.The Chief Educational Officer,
The Chief Educational Office,
Coimbatore – 641 001.

6.The District Educational Officer (Elementary),
The District Educational Office,
Tiruppur – 641 604.

7.The Block Educational Officer -I,
Office of the Block Education Office,
Tiruppur South, Tiruppur – 641 604.

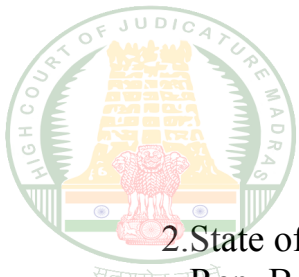
8.The Block Educational Officer -II,
Office of the Block Education Office,
Tiruppur South, Tiruppur – 641 604.

9.The Headmaster,
Government High School, Azhiyar Nagar,
Coimbatore District.

[R7-9 impleaded vide order dated 29.11.2024
in Wmp.No.33966 of 2024]

... Respondents in W.P.No.11497 of 2024

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



W.P.Nos.11497 & 18132 of 2024

2.State of Tamil Nadu,
Rep. By its Principal Secretary to Government,
School Education Department,
Fort St.Gorge, Secretariat,
Chennai – 600 009.

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

4.The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.

5.The Chief Educational Officer,
Chengalpattu District,
Chengalpattu.

6.The Chief Educational Officer,
Erode District,
Erode.

7.The Chief Educational Officer,
Tiruvarur District,
Tiruvarur.

8.The Chief Educational Officer,
Coimbatore District,
Coimbatore.

9.The District Education Officer (Elementary),
Ranipet, Ranipet District.

10.The District Educational Officer (Secondary),
Erode, Erode District.

11.The Headmaster,
Government High School,
Chitlapakkam, Chengalpattu District.



W.P.Nos.11497 & 18132 of 2024

WEB.COM

12.The Headmaster,
Government High School,
Sithalapakkam, Chengalpattu District.

13.The Headmaster,
Government Girls Higher Secondary School,
Peralam, Tiruvarur District.

14.The Headmaster,
Government Higher Secondary School, Kadathur,
Erode District.

15.The Headmaster, Municipal Girls Higher Secondary School,
Erode, Erode District.

16.The Headmaster, Government Higher Secondary School,
Kurumandur, Erode District.

17.The Headmaster, Government Higher Secondary School,
Attakatti, Coimbatore District.

18.The Block Educational Officer,
Office of the Block Education Office,
Sholinghar,
Ranipet District.

[R11-18 impleaded vide order dated 29.11.2024

in WMP.No.33969 of 2024]

... Respondents in W.P.No.18132 of 2024

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of declaration, to declare the proviso to impugned Rule 2 of Tamil Nadu Pension Rules, 1978 as notified in G.O.Ms.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.Ms.No.304, Finance Department dated 27.05.2004 as illegal and consequently, to direct the respondents to shift the enrolment of the petitioners



W.P.Nos.11497 & 18132 of 2024

in Contributory 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.

(In both Petitions)

For Petitioner : Mr.J.Jayamalan, Senior Advocate

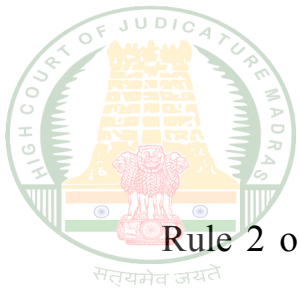
For Respondents : Mr.U.M.Ravichandran, Spl. Govt. Pleader

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The Writ of declaration has been instituted to declare the proviso to impugned Rule 2 of Tamil Nadu Pension Rules, 1978 as notified in G.O.Ms.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.Ms.No.304, Finance Department dated 27.05.2004 as illegal. Further, directions is sought for the respondents to shift the enrolment of the petitioners in Contributory Pension Scheme to that of the previous Pension Scheme as per the 1978.

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



W.P.Nos.11497 & 18132 of 2024

WEB COPY

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 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

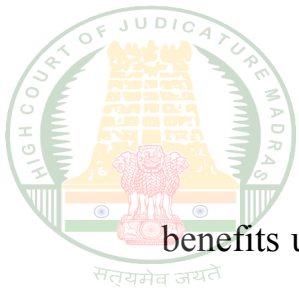


W.P.Nos.11497 & 18132 of 2024

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



W.P.Nos.11497 & 18132 of 2024

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.

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



W.P.Nos.11497 & 18132 of 2024

Petitions. Accordingly, the Writ Petitions stand dismissed. Consequently, the

connected Miscellaneous Petitions, if any, are closed. No costs.

[S.M.S., J.] [K.R.S., J.]
04.02.2025

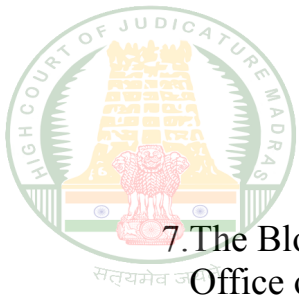
Index: Yes/No

Speaking/Non-speaking order

gd

To

- 1.The Principal Secretary to Government,
Finance Department,
Fort St.Gorge, Secretariat,
Chennai – 600 009.
- 2.The Principal Secretary to Government,
School Education Department,
Fort St.Gorge, Secretariat,
Chennai – 600 009.
- 3.The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.
- 4.The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.
- 5.The Chief Educational Officer,
The Chief Educational Office,
Coimbatore – 641 001.
- 6.The District Educational Officer (Elementary),
The District Educational Office,
Tiruppur – 641 604.



W.P.Nos.11497 & 18132 of 2024

7. The Block Educational Officer -I,
Office of the Block Education Office,
Tiruppur South, Tiruppur – 641 604.

8. The Block Educational Officer -II,
Office of the Block Education Office,
Tiruppur South, Tiruppur – 641 604.

9. The Headmaster,
Government High School, Azhiyar Nagar,
Coimbatore District.

10. The Chief Educational Officer,
Chengalpattu District,
Chengalpattu.

11. The Chief Educational Officer,
Erode District,
Erode.

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

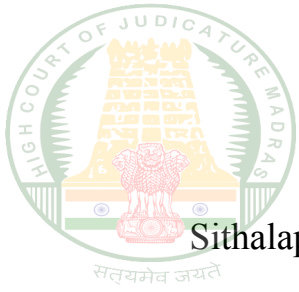
13. The Chief Educational Officer,
Coimbatore District,
Coimbatore.

14. The District Education Officer (Elementary),
Ranipet, Ranipet District.

15. The District Educational Officer (Secondary),
Erode, Erode District.

16. The Headmaster,
Government High School,
Chitlapakkam, Chengalpattu District.

17. The Headmaster,
Government High School,



W.P.Nos.11497 & 18132 of 2024

Sithalapakkam, Chengalpattu District.

WEB COPY

18.The Headmaster,
Government Girls Higher Secondary School,
Peralam, Tiruvarur District.

19.The Headmaster,
Government Higher Secondary School, Kadathur,
Erode District.

20.The Headmaster, Municipal Girls Higher Secondary School,
Erode, Erode District.

21.The Headmaster, Government Higher Secondary School,
Kurumandur, Erode District.

22.The Headmaster, Government Higher Secondary School,
Attakatti, Coimbatore District.

23.The Block Educational Officer,
Office of the Block Education Office,
Sholinghar,
Ranipet District.



WEB COPY



W.P.Nos.11497 & 18132 of 2024

S.M.SUBRAMANIAM, J.
AND
K.RAJASEKAR, J.

gd

W.P.Nos.11497 & 18132 of 2024

04.02.2025