



W.P.No.22148 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

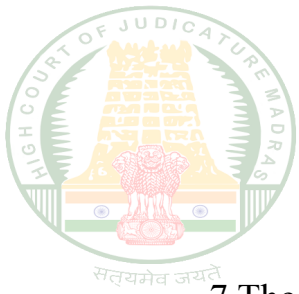
W.P.No.22148 of 2019 and
W.M.P.No.21417 of 2019

D.Mary Vanitha

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George, Chennai 600 009.
- 2.The Director of School Education,
DPI Campus, College Road, Chennai 600 006.
- 3.The Chief Educational Officer,
Villupuram District, Villupuram.
- 4.The District Educational Officer,
Ulundurpet, Villupuram District.
- 5.The Block Educational Officer,
Thiagadurgam Union, Villupuram District.
- 6.The Manager,
Kulandaivel Aided Middle School,
Thimmalai, Villupuram District.



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7. The Accountant General,
Office of Accountant General,
318, Anna Salai, Teynampet,
Chennai 600 018.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to allow the petitioner under GPF Scheme based on the TPF A/c.No.651529 allotted to the petitioner with deduction from the salary of the petitioner from March 2018 onwards with all other consequential and attendant benefits under old pension scheme based on the representation of the petitioner dated 26.07.2018 and 18.09.2018 within a time frame to be fixed by this Court.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mrs.P.Rajarajalakshmi, GA for R1 to R6
Mr.L.Muralikrishnan,
Standing Counsel for R7

ORDER

This Writ Petition has been filed to direct the respondents to allow the petitioner under GPF Scheme based on the TPF A/c.No.651529 allotted to the petitioner with deduction from the salary of the petitioner from March 2018 onwards with all other consequential and attendant benefits under old pension scheme based on the representation of the



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petitioner dated 26.07.2018 and 18.09.2018 within a time frame to be fixed by this Court.

2. Heard Mr.S.Nedunchezhiyan, learned counsel for the petitioner, Mrs.P.Rajarajalakshmi, learned Government Advocate for R1 to R6 and Mr.L.Muralikrishnan, learned Standing Counsel for R7 and perused the materials available on record.

3. The petitioner was appointed as a Secondary Grade Teacher in the Elementary Education on 23.04.2003 and she was assigned with the teacher provident fund No.TPF/651529 and the contribution towards provident fund was recovered from the date of appointment and has been recovered every month. Thereafter, the petitioner was brought under GPF under the Tamil Nadu Pension Service Rules. The petitioner has also availed the provident fund loan from her GPF account and the same has been repaid also.



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3.1. In view of the issuance of the Government Order in G.O.Ms.No.259, Finance Department dated 06.08.2003, contributory pension scheme was introduced and the cut-off date for enforcing of the new pension scheme was fixed as 01.04.2003. The petitioner claims that her appointment process has been initiated even before 01.04.2003, but there was a delay in giving appointment on 23.04.2003 and hence, she should fall under the old pension scheme and further, the Government Order came into force only retrospectively.

4. The learned counsel for the petitioner submitted that the above legal position has already been settled by the Delhi High Court in the case of Tanaka Ram and Others Vs. Union of India and Others. The same has been followed in the case of Shyam Kumar Choudhary and Others Vs. Union of India, Nirajkumar Singh and Others Vs. Union of India and P.Ranjitharaj Vs. State of Tamil Nadu and Others, reported in (2022) SCC Online SC 508.



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5. The learned Government Advocate for the respondents 1 to 6 placed reliance on the Division Bench Order of this Court held in *V.Sagadevan Vs. State of Tamil Nadu in W.A.No.217 of 2011 dated 19.06.2014*. In the said judgment, it is held that in *R.Vijayakumar Vs. Government of Tamil Nadu*, the validity of G.O.Ms.No.259 dated 06.08.2003 was challenged and the amendment was upheld. In view of the same, it is held that the persons who have got appointment after 01.04.2003 are not entitled to the old pension scheme benefits irrespective of the selection process started from the earlier day.

6. However, the later judgment of the Hon'ble Supreme Court in the case of *Union of India Vs. Tushar Ranjan Mohanty reported in 1994 (5) SCC 450*, has mellowed down the position by holding that the rules under Article 309 of the Constitution of India cannot be made retrospectively so as to nullify the right vested in a person under a statute or under the Constitution.



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7. By applying the above logic to the benefit of the old pension scheme, the Delhi High Court has held in Tanaka Ram's case (supra) that the option to continue the old pension scheme should be extended to all those who had been selected in the examination conducted in the year 2003, but were issued call letters only during January or February 2004. In similar matter involving the State of Tamil Nadu, in the case of P.Ranjitharaj (supra), it is once again held that merely because the appointment order was issued later, the benefit available in old pension scheme for those selectees who have got selected during the selection process started before 01.04.2003 should not be deprived.

8. The recent judgment of this Court held in ***B.Vallipavai Vs. State of Tamil Nadu and others in W.P.No.8055 of 2015 dated 11.07.2023***, the same position is applied and held that the petitioner cannot be deprived of the benefit of old pension scheme, as she has participated in the selection process which has been initiated earlier and would not have thought that the selection would be made after 01.04.2003 and she would become ineligible for the old pension scheme.



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Applying such an equitable consideration, the said Writ Petition was allowed in favour of the petitioner therein.

9. In the subsequent judgment of this Court held in ***S.Nagarani Vs. The Secretary to Government, Chennai and Others in W.P.No.28353 of 2023 dated 14.12.2023*** also, the judgment of the Hon'ble Supreme Court held in ***P.Ranjitha Raj Vs. State of Tamil Nadu and Others, reported in (2022) SCC Online SC 508*** has been followed. A reference has also been made about the above judgment in the order of the Coordinate bench held in B.Vallipavai case (supra). Consequently, it is held that in view of the various orders passed by the Hon'ble Supreme Court and the Delhi High Court, for the selection process which has been initiated prior to 01.04.2003 and the process was continued in various stages prior to 01.04.2003, the petitioners should be given with the relief of continuing in an old pension scheme. For the sake of clarity, the judgment of the Hon'ble Supreme Court held in the case of ***P.Ranjitha Raj Vs. State of Tamil Nadu and Others, reported in (2022) SCC Online SC 508*** is extracted hereunder:



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"12. In the given circumstances, when those who are lower in order of merit to the appellants were appointed by an order dated 24th September 2002, the appellants have no right of say in the matter of appointment and no justification has been tendered by the State respondent as to why their names were withheld for two/three years, when their names were cleared by the Commission on 3rd September, 2002 and sent to the State Government and finally appointments were made of the appellants on 23rd August, 2005 and 23rd April, 2004 respectively and the delay indeed in making appointments in the case of the present appellants in no manner could be attributable to them.

13. In the given circumstances, when all other candidates who had participated along with the appellants pursuant to advertisement dated 9th November 2001, on the recommendations made by the Commission were appointed on 24th September, 2002 including those who are lower in the order of merit, there appears no reason for withholding the names of the present appellants and merely because they were appointed at a later point of time, would not deprive them from claiming to become a member of Tamil



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Nadu Pension Rules, 1978, which is applicable to the employees who were appointed on or before 1st April, 2003."

10. The petitioner of this case also similarly placed in view of the initiation of selection process before 01.04.2003 but the appointment orders have been issued at a later point of time. Hence, I feel the petitioner should not be prevented from covering under the old pension scheme.

11. In view of the above stated reasons, **this Writ Petition is allowed** and the respondents are directed to allow the petitioner under GPF Scheme allotted to the petitioner with deduction from the salary of the petitioner from March 2018 onwards with all other consequential and attendant benefits under old pension scheme and pass appropriate orders in this regard within a period of **six weeks** from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
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R.N.MANJULA, J.

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To

- 1.The Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George, Chennai 600 009.
- 2.The Director of School Education,
DPI Campus, College Road, Chennai 600 006.
- 3.The Chief Educational Officer,
Villupuram District, Villupuram.
- 4.The District Educational Officer,
Ulundurpet, Villupuram District.
- 5.The Block Educational Officer,
Thiagadurgam Union, Villupuram District.
- 6.The Manager,
Kulandaivel Aided Middle School,
Thimmalai, Villupuram District.
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