



Review Appln.(MD)No.221 & 222 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

RESERVED ON 09.02.2026	PRONOUNCED ON .02.2026
---------------------------	---------------------------

CORAM
THE HONOURABLE MR. JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU

Review Application (MD) Nos.221 & 222 of 2025
in
W.A.(MD) Nos. 492 of 2020 & 1035 of 2017
and C.M.P.(MD).Nos.15792 & 15975 of 2025

Review Application (MD) Nos.221 of 2025

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Department of Finance (Pension),
Fort St.George, Chennai – 600 009.
- 2.The Commissioner,
Government Data Centre,
Guindy, Chennai – 600 025.
- 3.The Director of Elementary Education,
College Road,
Chennai – 600 006.
- 4.The District Elementary Educational Officer,
Madurai, Madurai District.
- 5.The Assistant Elementary Educational Officer,
Kottampatti at Karunkalakudi,

Page No: 1/13



Review Appln.(MD)No.221 & 222 of 2025

Madurai District.

WEB COPY

6.The Assistant Elementary Educational Officer,
T.Vadipatti, Madurai District.

7.The Headmistress,
Panchayat Union Middle School,
Mannadimangalam,
T.Vadipatti Union, Madurai District.

... Review Applicants/ Appellants

Vs

1.S.Sumathi

2.The Correspondent,
Jeya Primary School,
Madurai – 625 009.

... Respondents / Respondents

PRAYER:- Review Application filed under Article 226 of the Constitution of India read with Section 114 r/w Order XLVII Rule 1 of CPC against the order passed by this Court in W.A.(MD).No.492 of 2020, dated 30.08.2024 and pass such further order.

Review Application (MD) Nos.222 of 2025

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of Finance (Pension),
Fort St.George, Chennai – 600 009.

Page No: 2/13



Review Appln.(MD)No.221 & 222 of 2025

WEB COPY

2.The Commissioner,
Government Data Centre,
Guindy, Chennai – 600 025.

3.The Director of Elementary Education,
College Road, Chennai – 600 006.

4.The District Elementary Educational Officer,
Trichy, Trichy District.

5.The Assistant Elementary Educational Officer,
Vaiyampatty, Trichy District.

6.The Headmistress,
Panchayat Union Primary School,
Sadayampatti, Vaiyampatti Union,
Trichy District.

... Review Applicants/ Appellants

Vs

1.R.Arockiamary

2.The Correspondent,
RC Amalarackini Middle School,
Kulithalai, Karur District.

...Respondents / Respondents

PRAYER:- Review Application filed under Article 226 of the Constitution of India read with Section 114 r/w Order XLVII Rule 1 of CPC against the order passed by this Court in W.A.(MD).No.1035 of 2017, dated 30.08.2024 and pass such further order.

Page No: 3/13



Review Appln.(MD)No.221 & 222 of 2025

WEB COPY

In Both Review Applications:-

For Petitioners : Mr.M.Ajmal Khan
Additional Advocate General
Assisted by Mr.T.Amjad Khan
Government Advocate

For R1 : Mr.Xavier Rajini

COMMON ORDER

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)

These Review Applications have been filed against the order dated 30.08.2024, passed in W.A.(MD).Nos.492 of 2020 & 1035 of 2017.

2. Heard Mr.M.Ajmal Khan, learned Additional Advocate General assisted by Mr.T.Amjad Khan, learned Government Advocate appearing for the petitioners and Mr.Xavier Rajini, learned counsel appearing on behalf of the first respondent.

3. The learned AAG appearing for the petitioner would submit that the first respondents herein in both writ appeals were originally

Page No: 4/13



Review Appln.(MD)No.221 & 222 of 2025

appointed as a Secondary Grade Teacher in the second respondent schools and were placed under the Old Pension Scheme, at which point of time they had also participated in the recruitment process and were selected as a Secondary Grade Teacher in the sixth petitioner schools. They had been relieved from the second respondent school on 31.05.2007 and 01.12.2006 respectively and had joined the sixth petitioner school only on 06.06.2007 and 06.12.2006 respectively. Hence, there was a break in service and in view of the change in circumstances viz., the Old Pension Scheme had been abolished and the new CPS Scheme had been introduced, they had been placed under the new CPS Scheme.

4. The first respondent in Review Appln(MD).No.222 of 2025 had approached this Court in W.P.(MD)No.2551 of 2015 and the first respondent in Review Appln(MD).No.221 of 2025 had approached this Court in W.P.(MD)No.1382 of 2015 respectively, seeking for a Mandamus to place them under the Old Pension Scheme based upon their initial order of appointment. He would submit that the learned

Page No: 5/13



Review Appln.(MD)No.221 & 222 of 2025

WEB COPY

Single Judge had disposed of the Writ Petitions, directing the respondents to consider the representations and pass orders. He would submit that the third Appellant vide proceedings dated 09.09.2015 and 16.06.2015 respectively, rejected the representation of the first respondents, against which the first respondents filed a W.P.(MD)No. 21107 2015 and W.P(MD)No.15123 of 2015 respectively. The same were allowed by this court vide order dated 27.11.2015 and 27.01.2020 against which two Intra-Court Appeals had been preferred and one came to be dismissed in W.A.(MD)No.492 of 2020 against which the present Review Appln(MD) No.221 of 2025 has been filed and the other came to be allowed in W.A.(MD).No.1035 of 2017 by the Division Bench by this Court in it's order dated 08.08.2017. The first respondent in W.A.(MD).No.1035 of 2017 preferred a review in which the Co-ordinate Bench of this Court had allowed the Review by setting aside the order made therein and directed the Writ Appeal to be heard afresh. Thereafter, the Writ Appeal had come for afresh hearing and by placing reliance upon Rule 25 of the Tamilnadu Pension Rules, this Court had held that there is a continuation of service even though there

Page No: 6/13



Review Appln.(MD)No.221 & 222 of 2025

is a break and that such break had happened in view of the eventuality of the intervening holidays, and dismissed the Writ Appeal vide order dated 30.08.2024, against which the present Review Appln(MD).No. 222 of 2025 has been filed.

5. He would submit that both the first respondents had come with unclean hands by placing representations which had been created to substantiate their case. That apart, he would submit that for appointments made in the Government after 01.04.2003 only New Pension Scheme could be made available and not the Old Pension Scheme. He would further submit that the Rule 25 of the Tamilnadu Pension Rules could be applicable only to the Government servants who moves from one service to another and cannot be made applicable to the first respondents as their services in the second respondent school cannot be treated to be a Government service to claim the benefits of Rule 25. Hence, he would submit that it is imperative that this Court bestowes it's indulgence in reviewing the order made by it in the Intra-Court Appeals.

Page No: 7/13



Review Appln.(MD)No.221 & 222 of 2025

WEB COPY

6. Countering his arguments, Mr.Xavier Rajini learned counsel appearing on behalf of the first respondents would submit that firstly there is no material error on the face of the record. He would submit that the Division Bench of this Court in W.A.No.3055 of 2019 dated 10.07.2023 placing reliance upon the Government order in G.O. (Ms).No.992, Education Department dated 22.06.1979 had benefitted the teacher therein to also count services of the said Teacher in a private school management for conferring Selection Grade and Special Grade. He would submit that when such services in the private management could be taken into granting of benefit when a teacher was in service with the Government, the same could also be extended for counting of service in a private management that too particularly when a teacher had originally been placed under the Old Pension Scheme. Hence, he would submit that there is no reason, much more any error apparent on the face of the record to Review the order.

7. We have considered the submissions made by the learned

Page No: 8/13



Review Appln.(MD)No.221 & 222 of 2025

WEB COPY

counsels appearing on either side and perused the materials available on record.

8. The order passed by this Court is sought to be Reviewed on the ground that the first respondents had approached this Court with unclean hands ie., without submitting any representations had sought for a Mandamus and that Rule 25 which was invoked by this Court to grant relief was not applicable to the first respondents.

9. A litigant approaches this Court under Article 226 of the Constitution of India seeking to issue a writ of mandamus or any other writ when a litigants fundamental right or constitutional right has been infringed. Pension is a constitutional right given to an employee, which is also protected under Article 300A of the Constitution. Pension is a continuous right that is available to an employee. Even assuming that such representations were fabricated, the question remains as to which of the Pension Scheme the first respondents would have to be benefitted with.

Page No: 9/13



Review Appln.(MD)No.221 & 222 of 2025

10. It is undisputed that the first respondents were working as a Secondary Grade Teacher in the second respondent school before participating in the recruitment process to get themselves to be appointed in the sixth petitioner school. Rule 25 which has been relied upon by the Court permits counting of earlier service rendered by a Government servant to also be counted to reckon the qualifying service. The break in service was also condoned by a learned Single Judge and affirmed by this Court in the order under Review.

11. A perusal of the order of the Division Bench of which one of us was a party (KBJ) relied upon by the learned counsel for the 1st respondents, it could be noted that for confirming Selection Grade/ Special Grade referring to a Government order in G.O.(Ms) No.992, Education Department dated 22.06.1979 wherein a policy decision had been taken by the Government to count the past service outside the Education Department namely the service that had been rendered by a teacher prior to his or her resignation either in a Management school/ Panchayat Union school or Municipality school were directed to be

Page No: 10/13



Review Appln.(MD)No.221 & 222 of 2025

counted in for such purposes.

WEB COPY

12. When that being the position, even for granting of Selection Grade/ Special Grade, Government had taken a policy decision to count service rendered in a Aided Private Management school, we do not find any infirmity in extending the said Government orders to benefit the first respondents with the Old Pension Scheme particularly when pension had been declared not to be a bounty and the right to receive the pension is protected under Article 300A of the Constitution of India, that too in the light of the fact the 1st respondents were earlier kept under the Old Pension Scheme.

13. For the aforesaid reasons, we do not find any error apparent on the face of the record to Review the order as sought for by the petitioners and accordingly, the Review Petitions fail and are dismissed. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

Page No: 11/13



Review Appln.(MD)No.221 & 222 of 2025

(C.V.K.,J.)

(K.B.,J.)

.02.2026

WEB COPY

Gba

Index : Yes/No

Speaking order : Yes/No

To

1.The Correspondent,
Jeya Primary School,
Madurai – 625 009.

2.The Correspondent,
RC Amalarackini Middle School,
Kulithalai, Karur District.

Page No: 12/13



WEB COPY



Review Appln.(MD)No.221 & 222 of 2025

C.V. KARTHIKEYAN., J.
and
K.KUMARESH BABU.,J.

Gba

A Pre-delivery judgment made in
Review Application (MD) Nos.221 &
222 of 2025
in
W.A.(MD) Nos. 492 of 2020 &
1035 of 2017
and C.M.P.(MD).Nos.15792 &
15975 of 2025

.02.2026

Page No: 13/13