



W.P.(MD) Nos.24167 & 24485 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
13.10.2025	26.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) Nos.24167 & 24485 of 2025

and

W.M.P.(MD) Nos.18968, 18969, 19220, 19221 & 19222 of 2025

W.P.(MD) No.24167 of 2025:

K.Nalayini

... Petitioner

-vs-

- 1.The State of Tamil Nadu
rep.by its Principal Secretary
School Education Department
Secretariat, St.George Fort
Chennai-600 009
- 2.The Director of School Education
College Road, Chennai-600 006
- 3.The Accountant General
261, Anna Salai
Chennai-600 018



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4.The Commissioner
Madurai Corporation
Madurai

5.The Chief Educational Officer
Madurai Corporation Schools
Aringar Anna Maligai
Madurai-625 002

6.The Headmaster
Corporation High School
Munichalai
Madurai-625 009

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned order passed by the 6th respondent vide his proceedings in Na.Ka.No.10/2025 dated 01.08.2025 and quash the same as illegal and consequently direct the respondents to keep the petitioner under the old pension scheme without disturbing the services of the petitioner within a period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.N.Satheesh Kumar
Addl. Government Pleader for R1, R2, R5 & R6
Mr.P.Gunasekaran
Standing Counsel for R3
Mr.S.Vinayak
Standing Counsel for R4



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W.P.(MD) No.24485 of 2025:

A.Malarvizhi

... Petitioner

-VS-

- 1.The State of Tamil Nadu
rep.by its Principal Secretary
School Education Department
Secretariat, St.George Fort
Chennai-600 009
- 2.The Director of School Education
College Road, Chennai-600 006
- 3.The Accountant General
261, Anna Salai
Chennai-600 018
- 4.The Commissioner
Madurai Corporation
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- 5.The Chief Educational Officer
Madurai Corporation Schools
Aringar Anna Maligai
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- 6.The Headmaster
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... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the



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impugned order passed by the third respondent vide his proceedings in No.E17/1/11732901/ACK/446, dated 13.08.2025 and quash the same as illegal and consequently direct the respondents to keep the petitioner under the old pension scheme without disturbing the services of the petitioner within a period that may be stipulated by this Court.

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Mr.N.Satheesh Kumar
Addl. Government Pleader for R1, R2, R5 & R6

Mr.P.Gunasekaran
Standing Counsel for R3

Mr.P.Anbunithi
Standing Counsel for R4

COMMON ORDER

These Writ Petitions have been filed to quash the impugned order passed by the 6th respondent, and 3rd respondent, dated 01.08.2025 & dated 13.08.2025 respectively as illegal and consequently direct the respondents to keep the petitioners under the old pension scheme without disturbing the services of the petitioners within a period that may be stipulated by this Court.



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2. Heard Mr.H.Mohammed Imran, learned counsel appearing for the petitioner and Mr.N.Satheesh Kumar, learned counsel appearing for the first and second respondents, Mr.P.Gunasekaran, learned standing counsel appearing for the Accountant General and Mr.P.Anbunithi, learned Standing counsel appearing for the Commissioner of Madurai Corporation.

3. The case of the Writ Petitioners in these Writ Petitions is that based upon the employment seniority registered with Employment Exchange, call letters were issued as early as in the year 1999 and was included in the selection list that had been published on 29.10.1999 issued by the fourth respondent. The Government had issued G.O.(Ms).No.104, School Education Department dated 29.04.2002 with regard to the appointment and method of selection for the posts of Special Teacher run by the Corporation of Chennai, Madurai and Coimbatore. The Committee constituted also decided to go ahead with the selection and sent call letters for attending certificate verification to be held on 16.06.2000 in which the petitioners had participated and informed that they were selected, however, no appointment order was issued.

4. But, however on 09.10.2001, the Government had sent a letter raising certain queries which was also duly answered by the fourth



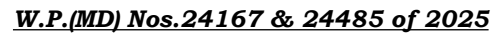
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passed on 01.08.2025 calling upon the petitioners to register under the New CPS Pension by obtaining IFHRMS ID.

6. The learned counsel for the petitioner would submit that such a communication is wholly improper and illegal. Relying upon various judgments of the Hon'ble Apex Court made in Civil Appeal.Nos.3176 & 3177 of 2022, he would contend that the rationale laid down in the aforesaid judgment would squarely be applicable to the case of the petitioners and hence, he prays this Court to set aside the order impugned herein and direct the respondents to keep the petitioners under the Old Pension Scheme without disturbing the service of the petitioners.

7. Countering his arguments, learned counsel appearing for the fourth respondent would contend that by G.O.(Ms).No.249 Finance Department, dated 06.08.2003, a New Pension Scheme had been envisaged mandating all Government employees appointed on or after 01.04.2003 to be only governed by the New Pension Scheme namely Contributory Pension Scheme. The petitioners are only liable to be placed under the New Pension Scheme, as they all have been appointed by orders dated 31.10.2003 inadvertently, they have been placed under the General Provident Fund deduction mechanism which



8. He would further submit that it is only the date of appointment and not the selection or recruitment which would decide the eligibility of pension as the order of appointment had been made after the Government order had come into force. The claim of the petitioners to have a right to be continued under the Old Pension Scheme would amount to conferring a retrospective right to the petitioners.

9. Relying upon a Division Bench of this Court in W.P.Nos.9027 & 9035 of 2009 dated 10.06.2009, he would contend that the Division Bench had categorically held that even in the recruitment of selection was conducted prior to 01.04.2003, the actual appointment and joining date alone was decisive in determining the eligibility of the employee to be placed under the Old Pension Scheme or the New Pension Scheme. Further relying upon the Division Bench judgment of this Court in W.A.(MD).No.217 of 2011 dated 19.06.2014 and W.A.(MD).No.1529 of 2014, he would reiterate the claim that the petitioners should only be placed under the New Pension Scheme. Hence, he prays this Court to dismiss these Writ Petitions.



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10. The learned counsels appearing for the third respondent reiterating the submissions made by the learned Standing Counsel appearing for the fourth respondent would also rely upon a clarification letter, dated 07.09.2006 issued by the Finance Department clarifying that the candidates who have been selected by TNPSC prior to 01.04.2003 and joined their services after 01.04.2003 should be only brought under the New Pension Scheme. When the cut-off date has been prescribed under G.O.(Ms).No.259 dated 06.08.2003, the petitioners who have been appointed beyond the cut-off date cannot be allowed to be placed under the Old Pension Scheme. Hence, the learned counsel for the third respondent would also seek dismissal of these Writ Petitions.

11.I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

12. It is not disputed that the selection process of appointment of special teachers in the schools established and maintained by the fourth respondent began in the year 1999. It has also not been disputed that the petitioners herein were declared to have been selected. It is also to be noted that this



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Court recording the statement made by the Special Government Pleader that the Education Department had permitted filling up of 9 vacancies in which communication, the petitioners' name was also found, had closed the contempt petition by its order dated 04.12.2002. Thereafter, under the pretext of filing a Review Application which has also been discussed, a positive direction has also been issued to the respondents to appoint the petitioners.

13. It is also not disputed that out of 9 Writ Petitioners, only 4 of them were appointed on 12.12.2002 and the petitioners were appointed after nearly 10 months by order of appointment dated 31.10.2003. In this background, this Court shall now analyse the judgment of the Hon'ble Apex Court made in Civil Appeal Nos.3176 - 3177 of 2022.

14. The facts of the aforesaid judgment would disclose that the Tamil Nadu Public Service Commission had issued a notification on 09.11.2001 for selection of APP Grade-II. 51 persons were appointed by the Government in its letter dated 24.09.2002. The appellants appointments therein were with held and finally the appellants were appointed as APP Grade-II on 23.08.2005 and 23.04.2004 which is after the cut-off date namely 01.04.2003. The Hon'ble Apex Court after considering all the facts of the said case holding that there



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appears no reasons for with holding the names of the appellants in that case and merely because they were appointed at the later point of time would not deprive them from claiming to become a member of the Tamil Nadu Pension Rules 1978 which was applicable to the employees who were appointed on or before 01.04.2003. The said judgment had been delivered by the Hon'ble Apex Court on 25.04.2022. In view of the same, the judgments relied upon the learned Standing Counsel for the Corporation of Division Benches which were delivered much earlier to the said judgment cannot be said to be propounding the correct law.

15. Even after a categorical direction to appoint the 9 Writ Petitioners, in which the petitioners were also petitioners, only 4 of them have been appointed much before the cut-off date and the petitioners were appointed after the cut-off date. Therefore, this Court is of the view that the petitioners would have a right to continue under the Old Pension Scheme only.

16. For the aforesaid reasons, these Writ Petitions are allowed and the impugned orders in the respective Writ Petitions are quashed and the respondents are directed to keep the petitioners under the Old Pension Scheme without disturbing the services of the petitioners and said exercise



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shall be carried out by the respondents within a period of four (4) weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

26.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Gba

To:

- 1.The Principal Secretary,
School Education Department,
State of Tamil Nadu,
Secretariat, St.George Fort,
Chennai-600 009.
- 2.The Director of School Education,
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K.KUMARESH BABU, J.

Gba

PRE-DELIVERY COMMON ORDER
IN
W.P.(MD) Nos.24167 & 24485 of
2025
and
W.M.P.(MD) Nos.18968, 18969,
19220, 19221 & 19222 of 2025

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