



WEB COPY

WP No.17998 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-02-2026

CORAM

THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

WP No.17998 of 2017

S.Ramasamy,
S/o.Subbarayalu,
No.45/6, Shri Apartments,
6th Block, Mogappair East,
Chennai 600 037.

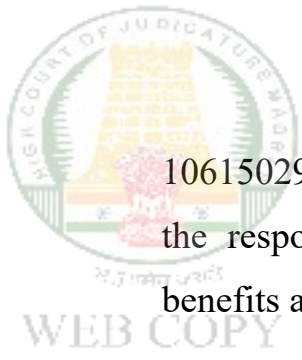
..Petitioner(s)

Vs

1. The Secretary to Government,
Finance Department, Fort St. George,
Chennai 600 009.
2. The Principal Accountant General, (A & E),
Tamil Nadu,
No.361, Anna Salai,
Chennai 600 018.
3. The Secretary to Government,
Animal Husbandry Fisheries and Dairy
Department,
Fort St. George,
Chennai 600 009.
4. The Deputy Director (AH),
District Livestock Farm,
Hosur 635 110,
Krishnagiri District.

..Respondent(s)

PRAYER : Certiorarified Mandamus to call for the records relating to the impugned order passed by the 2nd respondent in his proceedings No.P06/1/



10615029/ADK, dated 23.12.2016 and quash the same and consequently direct the respondents to sanction the petitioners pension and all other attendant benefits and disburse the same within time stipulated by this Honourable Court.

For Petitioner(s): M/s.Dr.S.S.Swaminathan,
Ra.Srividhya,
P.M.Vijayakumar.

For Respondent(s): Mrs.M.Jayanthi,
Addl. Govt. Pleader,
for R1,3 and 4.
Mrs.J.Sree Vidhya,
Standing Counsel For R2

ORDER

The petitioner challenges the communication dated 23.12.2016 issued by the second respondent. By the said communication, the claim of the petitioner for grant of pension under the Old Pension Scheme came to be rejected on the ground that the petitioner was absorbed into Government service after the introduction of the Contributory Pension Scheme, 2003, which came into effect from 01.04.2003.

2. The petitioner was appointed as Block Manager on 02.08.1985 in the Tamil Nadu Agro Engineering Service Cooperative Federation. The said Federation went into liquidation and, consequently, the petitioner was absorbed in the Animal Husbandry Department as Superintending Engineer against a sanctioned vacant post, vide order dated 20.11.2003. The petitioner retired from service on attaining the age of superannuation on 30.04.2016. While in



Government service, contributions towards the General Provident Fund (G.P.F.) were deducted from his salary and credited to G.P.F. Account No.18773/VETY.

Similarly, the Government also made contributions towards the Employees Provident Fund, and the amounts so deducted from the petitioner's salary were credited to the account maintained by the second respondent.

3. Dr. S.S. Swaminathan, learned counsel for the petitioner, submitted that though the petitioner was formally absorbed on 20.11.2003, the process for absorption had commenced as early as on 13.03.2002 and the delay in completing the process is attributable to the Government. Therefore, the petitioner cannot be denied pension under the Old Pension Scheme. In support of his submission, the learned counsel placed reliance on the decision of a co-ordinate Bench of this Court in W.P.No.8055 of 2015 dated 11.07.2023.

4. Per contra, Mrs. M. Jayanthi, learned Additional Government Pleader appearing for the State, and Mrs. J. Sree Vidhya, learned Standing Counsel for the second respondent, submitted that the petitioner was absorbed only on 20.11.2003 and, as on that date, the New Pension Scheme had already come into force with effect from 01.04.2003. As per the New Pension Scheme, employees absorbed after its commencement are not entitled to the benefits of the Old Pension Scheme. Hence, the impugned communication issued by the second respondent cannot be faulted with and is liable to be sustained.

5. The arguments advanced by the learned counsel appearing on either side and the materials placed on record have been duly considered.



6. The undisputed fact remains that the petitioner, while serving as Block Manager in the Tamil Nadu Agro Engineering Service Cooperative Federation, was absorbed in the Animal Husbandry Department to the post of Superintending Engineer vide order dated 20.11.2003. Though the formal absorption order was issued on 20.11.2003, the process for such absorption had commenced as early as on 13.03.2002, ultimately culminating in the issuance of the absorption order on the said date.

7. The Co-ordinate Bench of the Court, while deciding W.P. No. 8055 of 2015, relied upon a series of judicial precedents to hold that the issue involved was no longer res integra.

8. Reference was made to earlier orders of this Court as well as judgments of the Delhi High Court concerning entitlement to the Old Pension Scheme (OPS). In those cases, relief was granted to personnel who had participated in recruitment processes initiated prior to the introduction of the Contributory Pension Scheme, even though their appointments were issued later due to administrative delay. The Delhi High Court held that candidates selected pursuant to examinations conducted before the cut-off date could not be denied OPS benefits merely because call letters or appointments were issued subsequently. Special Leave Petitions filed against those judgments were dismissed by the Supreme Court, and even review petitions failed.



9. Following those rulings, similar benefits were extended in subsequent cases by different Benches where recruitment notifications had been issued prior to the enforcement of the new pension scheme.

10. The Court also relied on the decision of the Hon'ble Supreme Court in P. Ranjitharaj v. State of Tamil Nadu, wherein it was held that candidates whose appointments were delayed for administrative reasons despite their selection and merit position could not be deprived of pensionary benefits applicable to those appointed earlier. The delay not being attributable to the candidates, they were held entitled to coverage under the Tamil Nadu Pension Rules, 1978.

11. The Co-ordinate Bench, referring to the aforesaid decisions, adjudicated the writ petition by holding that the Contributory Pension Scheme was brought into force with effect from 01.04.2003, whereas the vacancy to the post of B.T. Assistant had arisen as early as on 09.11.2002. After obtaining permission from the third respondent to fill up the said vacancy, the fifth respondent, by letter dated 02.03.2003, requested the District Employment Exchange to sponsor a list of suitable candidates. Upon furnishing of the list, the petitioner was called for interview, which was scheduled to be held on 10.04.2003. Therefore, it was held that the option to continue under the Old Pension Scheme must be extended to all those persons who had participated in the selection process prior to the crucial date but were issued appointment



orders only after the said date. According to the learned counsel for the petitioner, the said order of the Co-ordinate Bench has attained finality and has been implemented.

12. In the present case, the process of absorption of the petitioner commenced as early as on 13.03.2002 against a sanctioned vacant post in the Animal Husbandry Department. However, the formal order of appointment came to be issued only on 20.11.2023, and the delay in the said process cannot be attributed to the petitioner. The delay is solely attributable to the State Government and, therefore, the petitioner cannot be deprived of pensionary benefits under the Old Pension Scheme. The petitioner has put in more than ten years of Government service and has rendered the requisite qualifying service for grant of admissible pension. Hence, the impugned communication issued by the second respondent is arbitrary, discriminatory, and legally unsustainable.

13. Accordingly, the impugned communication dated 23.12.2016 issued by the second respondent is hereby quashed. The second respondent is directed to compute the pension and other pensionary benefits payable to the petitioner under the old pension scheme and disburse the same within a period of three months from the date of receipt of a copy of this order.



14. The Writ Petition is allowed. No costs. Consequently, the connected

W.M.P. No.19561 of 2017 is closed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

DIXIT

To

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Chennai 600 009.
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Tamil Nadu, No.361, Anna Salai,
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HEMANT CHANDANGOUDAR, J.

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