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WA No. 104 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-02-2026

CORAM

THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE SHAMIM AHMED

WA No. 104 of 2026 AND

CMP NO. 949 OF 2026

The Principal
Pondicherry Engineering College,
Pillaichavady, Puducherry 605 014

..Appellant

Vs

V.V Sivanandan
Ex. Subedar, No. 7/192, Sree Krishna Andimadom
Kadukkamkunnam Post, Palakkad 678 651
Kerala

..Respondent

Prayer : Writ Appeal under Clause XV of the Letters Patent to set aside the order dated 26.07.2023 in W.P. No. 8636 of 2015.

For Appellant : Mr.AR.L.Sundaresan
Additional Solicitor General
assisted by Mr.R.Syed Mustafa
Special Government Pleader (Puducherry)

For Respondent : Mr.A.S.Balaji

JUDGMENT

(Judgment of the Court was delivered by R.Suresh Kumar J.)

This intra court appeal has been directed against the order dated 26.07.2025 made in W.P.No.8636 of 2015.



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2. The respondent joined as a Security Officer of the appellant college on 12.11.1986 on consolidated basis. This position continued for several years till he attained superannuation, where he has been in continuous service without any break till 31.07.1999, as on that date he attained superannuation on completion of 60 years of age. Since his service had not been regularised even after he rendered service from 1986 to 1999, he had approached this Court by filing a writ petition in the year 1987 in W.P.No.17547 of 1997 seeking a direction from this Court to regularise his service with effect from his date of initial appointment ie., 12.11.1986 with all consequential benefits.

3. The said writ petition has been dismissed on the ground that the respondent / writ petitioner since superannuated and retired already, the relief sought for cannot be granted. Aggrieved over the said order, he preferred an intra court appeal in W.A.No.525 of 2005, which was decided by a Division Bench of this Court vide its order dated 28.01.2010, where, ultimately the Division Bench passed the following order.

" Therefore, this writ appeal is allowed. The respondent is directed to regularise the services of the petitioner / appellant from 12.11.1986 with all consequential benefits, including arrears or pay and seniority. The respondent is directed to complete the entire process within twelve weeks from the date of receipt of a copy of this judgment and settle all the dues on the appellant. No costs."



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4. Accepting the order passed by the Division Bench, the appellant college vide order dated 26.04.2010, regularised the services of the writ petitioner / respondent with effect from his initial appointment dated ie., 12.11.1986. The order reads thus,

" As per Hon'ble High Court order dated 28.10.2010 as per the approval of the Secretary to Government (Education) cum Vice Chairman, Pondicherry consolidated basis will be regularised with effect from 12.11.1986 with all consequential benefits including arrears of pay and seniority. Necessary relevant office orders will be issued in due course."

5. Thereafter, when he sought for pay fixation and pay arrears as well as pensionary benefits, it has been replied by the appellant college on 18.05.2010 by way of a memorandum issued by the Principal of the college, which reads thus.

" Thiru V.V.Sivanandam, who worked as consolidated employee in this college is absorbed as Security Officer in the Group-C category of the regular establishment of the college with effect from 12.11.1986 (retrospectively) with all consequential benefits including arrears of pay. He was relieved from duty of Chief Security Officer in-charge under contract on consolidated salary on 31.07.1999 on attaining the age of 60 years.

2. His pay is fixed to a minimum basic pay of Rs.1,400/- (Rupees One Thousand and Four Hundred only) with effect from



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12.11.1986 (retrospectively) in the scale of pay of Rs.1400-40-1800-EB-50-2300 (as per the 4th Pay Commission pay revision) plus admissible allowances.

3. He is placed in second position in the seniority list of the security officer final seniority list is enclosed."

6. A further communication written by the appellant college on 31.05.2012, reads as follows:

" With reference to the above the representation for payment of pension and terminal benefits in respect of Thiru V.V.Sivanandam, Former Security Officer, Pondicherry Engineering College is being placed before the Governing Body of the college for decision. The decision of Governing Body will be intimated to you in due course."

7. As they stated in the communication dated 31.05.2012, the issue was placed before the Governing Body of the college and in the 68th meeting and a decision was taken to regularise the services of the petitioner under General Provident Fund (GPF) scheme instead of Contributory Provident Fund (CPF). The relevant portion of the order dated 02.01.2013 reads thus.

" The service in respect of Thiru V.V.Sivanandam, Chief Security Officer rendered on consolidated basis was regularized with effect from 12.11.1986 vide ref(1) cited above and accordingly his retirement benefits ie., Gratuity & EL encashment was sanctioned under ref(2) above.



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2. As per decision of the 68th Governing Body meeting held on 12.09.2012 (ref.3 above) services of Thiru V.V.Sivanandam, Chief Security Officer, Pondicherry Engineering College is regularized under GPF Scheme instead of CPF Scheme.”

8. Despite all these orders, the respondent / writ petitioner since has not been paid the pensionary benefits under the GPF Scheme, he had requested for sanctioning such a pension, which was negated by passing an order dated 10.11.2014, where the college management has stated that, at the time of regularisation or at the time of his superannuation he has been paid all retiral benefits under the CPF Scheme for which he opted to and once he has opted to become a member of the CPF Scheme, based on which the retiral benefits have been paid in lump sum including gratuity etc., he is not entitled to get pensionary benefits under the GPF Scheme. Aggrieved by the said order, the present writ petition has been filed.

9. The learned Writ Court having considered all the factual matrix has allowed the writ petition.

10. Heard Mr.AR.L.Sundaresan learned Additional Solicitor General for the appellant, who would submit that, insofar as the pensionary benefits sought for by the respondent / writ petitioner under the GPF Scheme is concerned, he has opted



to become the member of CPF Scheme and accordingly his retiral benefits including gratuity having been calculated was paid and after receipt of the same, he cannot turn around and seek for pensionary benefits by switching over from CPF to GPF Scheme. This position, though has been stated before the Writ Court, the same has not been considered in proper perspective by the learned Writ Court, thereby erroneous approach having been adopted by the writ court, the writ petition since was allowed, the same is liable to be interfered with.

11. We are not impressed with the said submission made by the learned Additional Solicitor General for the reason that, as per the direction given by the Division Bench while allowing the writ appeal on 28.01.2010, a clear direction has been given to the respondent therein, who is the appellant herein, to regularise the services of the writ petitioner / appellant in the said writ appeal from the date of his initial appointment ie., 12.11.1986 with all consequential benefits including arrears of pay and seniority.

12. During the relevant point of time when the writ petitioner was working at the appellant college between 1986 to 1999, there has been no CPF scheme and even if any specific CPF Scheme was adopted by the management of the appellant college, towards the same if any one has voluntarily joined, those members of the CPF Scheme alone would be liable to be dealt with under the said Scheme.



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13. Here in the case in hand, the writ petitioner had been in temporary status till he attained the age of superannuation in 1999. Thereafter, he fought for getting regularisation, which struggle came to an end only by the Division Bench judgment dated 28.01.2010 followed by the regularisation order passed on 26.04.2010. Therefore, there has been no occasion either for the employer or for the employee in the present case to discuss and decide about the employee to become the member of CPF Scheme. When that being the position, the stand taken by the appellant before this Court only at this juncture that he opted for CPF Scheme has no legs to stand.

14. Moreover, when the same stand was taken before the writ court, the learned writ Court in fact directed to produce the original files, which were perused by the writ Court, where it was found that nothing is there on record to show that the respondent / writ petitioner has consented to become a member of the CPF Scheme. This position in fact has been recorded by the learned Judge in Paragraph 4 of the impugned order.

15. Moreover, successive communications issued by the appellant dated 26.04.2010, 18.05.2010 and 02.02.2013 have all reiterated the position that the respondent / writ petitioner since has been regularised with effect from the date of



his initial appointment ie., 12.11.1986 and he has been regularised under GPF Scheme instead of CPF Scheme, more specifically it has been averred in the order dated 02.01.2013, which we have extracted herein above that the regularisation has taken place only under GPF Scheme and not under CPF Scheme.

16. When there are no records to show that the regularisation is made only under CPF Scheme, which is the new invention created by the appellant only for the purpose of this lis, that too before the writ Court, which in fact has been considered by the Writ Court after perusing the original records, the position cannot be improved at any cost as the record speaks for itself. When that being the position, the respondent / writ petitioner since is entitled to get all retiral benefits including pensionary benefits only under the GPF Scheme and if the retiral benefits has already been paid under the GPF Scheme, the pensionary benefits shall be paid to the respondent / writ petitioner and the appellant shall continue to pay the same till his entitlement or his lifetime.

17. Therefore, there is every justification on the part of the writ Court in allowing the writ petition through the impugned order. Hence, we do not find any reason to interfere with the same. The writ appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed. The order passed by the writ Court shall be complied with immediately, which means the



WA No. 104 of 2026

arrears of pension shall be calculated and be paid to the respondent / writ petitioner within a period of two months from the date of receipt of a copy of this order and the appellant management shall continue to pay the monthly pension to the respondent / writ petitioner till his lifetime.

(R.S.K.,J.) (S.S.A.,J.)
10-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

KST

To

The Principal
Pondicherry Engineering College,
Pillaichavady, Puducherry 605 014



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Page 10 of 10