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W.A(MD)No.743 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2026

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MS.JUSTICE R.POORNIMA

W.A(MD)No.743 of 2021

and

C.M.P(MD)No.3334 of 2021

M.Sumathi

... Appellant /
Petitioner

Vs.

1.The Secretary to Government,
Government of Tamil Nadu,
Education Department,
Fort St.George,
Chennai - 600 009.

2.The Director of School Education,
Office of the Director of School Education,
DPI Campus, College Road,
Chennai.

3.The State Project Director,
Teachers Recruitment Board,
Chennai - 600 006.

4.The Accountant General,
D.M.S, Nandanam,
Chennai.

... Respondents /
Respondents



W.A(MD)No.743 of 2021

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act to set aside the order dated 10.11.2020 in W.P(MD)No.11327 of 2014 and allow the Writ Appeal.

For Appellant : Mr.Ragatheesh Kumar
for Mr.H.Thayumanaswamy

For Respondents : Mr.C.Venkatesh Kumar
Special Government Pleader
for R.1 & R.2

Mr.T.Amjad Khan for R.3

Mr.P.Gunasekaran
Standing Counsel for R.4

JUDGMENT

(Judgment of the Court was made by G.R.Swaminathan J.)

The unsuccessful writ petitioner is the appellant before us. The appellant was appointed as BT Assistant in the Block Resource Centre, Kottur, Thiruvarur District on 26.03.2003. However, the appellant joined duty only on 01.04.2003. The Contributory Pension Scheme came into force with effect from 01.04.2003. The only question that arose was whether the appellant is entitled to be placed under the Old Pension Scheme. Seeking the said relief, the appellant filed W.P(MD)No.11327 of 2014. The learned single Judge, vide order dated 10.11.2020, dismissed the said writ petition. Challenging the same, this Writ Appeal has been filed.



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2.The learned counsel appearing for the petitioner reiterated all the contentions set out in the appeal and called upon this Court to set aside the order passed by the learned single Judge and grant relief as prayed for.

3.Per contra, the learned Special Government Pleader for the Education Department as well as the learned Standing Counsel for the Accountant General submitted that the order of the learned single Judge does not call for interference. They pointed out that the learned single Judge had only followed the earlier order dated 02.08.2017 made in W.A(MD)No.1529 of 2014 which incidentally was authored by one of us (GRSJ).

4.We carefully considered the rival contentions and went through the materials on record.

5.It is true that the order dated 02.08.2017 made in W.A(MD)No. 1529 of 2014 is in favour of the stand taken by the respondents and against the appellant. However, our attention is drawn to two subsequent decisions, namely, the order dated 14.03.2018 made in W.A(MD)No.370



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of 2018 and the order dated 20.01.2025 made in W.A(MD)No.126 of 2025. The Hon'ble Division Bench while dismissing W.A(MD)No.370 of 2018 held as follows:

“3.The issue involved in this case, pertains to the interpretation of clause (3)(i) of G.O.Ms.No.259 Finance (Pension) Department dated 06.08.2003. The said condition states that a new Contributory Pension Scheme based on defined contributions will be introduced to the newly recruited employees. This will apply to all employees who are recruited on or after 01.04.2003. Admittedly, the first respondent was recruited prior to 01.04.2003 and issued order of appointment on 26.03.2003 and granted one week time to join duty. Prior to joining duty, the petitioner was required to obtain Medical Certificate from the Medical Board. One week time having been expired on 01.04.2003, since the Medical Board meets once in a week, the petitioner was able to get medical Certificate only on 04.04.2003 and joined duty on the said date. The Writ Court, in our considered view, rightly interpreted the meaning of the word “recruited” and word “joined”. The newly Contributory Pension Scheme is conscious about words “recruited” and “joined”. The recruitment of the first respondent was prior to 01.04.2013, the new Contributory Pension Scheme cannot be applied to the case of the first



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respondent. The Writ Court has given a correct interpretation.

4.The Special Government Pleader appearing for the appellants has referred to rules and contented that a person becomes a full member of service only from the date of joining the service. In fact, this issue was considered by the Writ Court, taking note of Rule 11 of Pension Rules, which deals with computation of qualifying service and as to whether the qualifying service is computed from the date of commencement or from the date of incumbent takes charge of the post or not. Therefore, the interpretation given by the Writ Court is perfectly valid and proper.”

Paragraph 8 and 13 of the order dated 20.01.2025 in W.A(MD)No.126 of 2025 read as follows:

“8. In fact, the entire selection process was over and based on merits, the respondent/writ petitioner had been selected and appointed by appointment order dated 26.03.2003, where, it is made very clear that he has been appointed as Block Resource Teacher Educator in the Block Resource Centre mentioned against them i.e., at Trichy District. When that being the position, at no stretch of imagination, the appointment order dated 21.04.2003 can be treated as an appointment order. Moreover, insofar as the New Contributory Pension



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Scheme is concerned, as per the Government Order issued in G.O.Ms.No.259 dated 06.08.2023, it has been made clear by virtue of the amendment that the Rule shall not apply to Government servants appointed on or after 01.04.2003 to services and post in connection with the affairs of the State, which are borne on pensionable establishments, whether temporary or permanent. Here in the case in hand, appointment has been made on 26.03.2003 i.e., well prior to 1 st April 2003.

...

13. The reason being that even independently or otherwise, this writ petitioner/respondent is entitled to get the benefit under Old Pension Scheme as he was well appointed on 26.03.2003 i.e., prior to 01.04.2003.”

6.It is relevant to note that the Government of Tamil Nadu filed SLP(Civil)Diary No.51426 of 2025 questioning the order made in W.A.No.126 of 2025. But the SLP was dismissed by the Hon’ble Supreme Court on 31.10.2025.

7.Even though there are two contra rulings on the same issue, we are of the view that the subsequent decisions commend our acceptance. This is more so because the SLP filed against the latest decision was dismissed by the Hon'ble Supreme Court. We have no hesitation to acknowledge that the subsequent decisions are interpretatively more



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sound compared to the order dated 02.08.2017 made in WA(MD)No. 1529 of 2014 authored by one of us (GRSJ). We, therefore, set aside the order of the learned single Judge.

8.It is seen that the appellant did not approach this Court immediately. In fact, she became a member of the Contributory Pension Scheme and deductions were regularly made from her salary accordingly. In view of allowing this writ appeal, she will now migrate to the Old Pension Scheme and the necessary book adjustments will have to be made.

9.This Writ Appeal is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [R.P, J.]
17.04.2026

MGA

To

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