



W.A(MD) No.1225 of 2023 &
W.P.(MD)No.32194 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 27.02.2026

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

**W.A(MD) No.1225 of 2023
&
W.P.(MD)No.32194 of 2025
&
W.M.P.(MD)Nos.25330 & 25334 of 2025**

In W.A.(MD)No.1225 of 2023

Boothalingam Pillai

... Appellant / 3rd Party

Vs.

1.The Manonmaniam Sundaranar University,
Represented by its Registrar,
Abhishekapatti,
Tirunelveli.

... 1st Respondent / Respondent

2.R.Marykanagamony

... 2nd Respondent / Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the direction issued in W.P.(MD)No.15885 of 2016, dated 11.10.2022 passed by this Court.



**W.A(MD) No.1225 of 2023 &
W.P.(MD)No.32194 of 2025**

WEB COPY

For Appellant : Mr.V.Vijay Shankar

For Respondents : Mr.Mahaboob Athiff
Standing Counsel for R1

: Mrs.D.Geetha for R2

In WP(MD)No.32194 of 2025

P.Boothalingam Pillai

... Petitioner

Vs.

The Registrar,
Manonmaniam Sundaranar University,
Abhishekapatti,
Tirunelveli.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for records of the respondent in its MUS/R/Estt.(Admn)/Reply/2024, dated 28.11.2024 and quash the same and consequently, direct the respondent to grant pension along with commutation, gratuity, provident fund, special provident fund, earned leave encashment, unearned leave and arrears of increment from 2018 and all other arrears to the petitioner along with interest @ 12% per annum from 30.06.2022.



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W.A(MD) No.1225 of 2023 &
W.P.(MD)No.32194 of 2025

For Appellant : Mr.V.Vijay Shankar

For Respondents : Mr.Mahaboob Athiff
Standing Counsel

JUDGMENT

(By G.R.SWAMINATHAN, J.)

This is a third party writ appeal mounted against the order dated 11.10.2022 made in W.P.(MD)No.15885 of 2016 filed by one Mary Kanagamony and Mithila Padmini.

2.The said writ petitioners were employees of Manonmaniam Sundaranar University. They had retired from service. However, their pensionary and other benefits were not settled. Hence, they sought issuance of writ of mandamus. They contended that even though they were absorbed as Junior Assistants only with effect from 08.05.2007, pursuant to the syndicate resolution dated 08.06.2007, they were subsequently retrospectively regularised with notional effect from 02.11.2002. The writ petitioners contended that they should be placed under what is known as Old Pension Scheme. The learned single Judge



W.A(MD) No.1225 of 2023 &
W.P.(MD)No.32194 of 2025

dismissed the writ petitions on the ground that retrospective regularization made vide resolution dated 28.04.2009 was impermissible in law.

3.The appellant herein Thiru.Boothalingam Pillai is also similarly placed. When he filed W.P.(MD)No.32194 of 2025, he was confronted with the aforesaid order dated 11.10.2022 passed by the learned single Judge. Thiru.Boothalingam Pillai had taken voluntary retirement. He realized that unless the order dated 11.10.2022 made in W.P.(MD)Nos. 15885 & 15886 of 2016 is questioned, he will not be placed under Old Pension Scheme. Hence, he obtained leave from the Hon'ble Division Bench and filed W.A.(MD)No.1225 of 2023. During the pendency of the writ appeal, he approached the University authorities for disbursement of his pensionary and terminal benefits. His request was rejected vide order dated 28.11.2024. Challenging the same, Boothalingam Pillai filed W.P. (MD)No.32194 of 2025.

4.Since the writ appeal as well as the writ petition are interconnected, they have been taken up together and are being disposed of by



W.A(MD) No.1225 of 2023 &
W.P.(MD)No.32194 of 2025

WEB COPY

a common order. The learned counsel appearing for the writ petitioner Boothalingam Pillai / writ appellant as well as the learned counsel appearing for R.Mary Kanagamony who has been shown as second respondent in the writ appeal contended that the order of the learned single Judge deserves to be set aside.

5.Per contra, the learned standing counsel for the University submitted that the writ petitioners herein joined the University as Tabulators in the year 1996. During the relevant time, there were no regular posts of Tabulator. The only post for absorbing them or regularising their services was that of Junior Assistant. The Conveners Committee passed a resolution on 11.12.2001 to absorb the Tabulators as and when the budgetary vacancies arose. It was mentioned therein that such absorption would be on the basis of seniority. The Tabulators had earlier approached the Madras High Court by filing W.P.Nos.13615 of 1994 etc., batch seeking absorption. The writ petitions were disposed of in the following terms:-



W.A(MD) No.1225 of 2023 &
W.P.(MD)No.32194 of 2025

WEB COPY

“(i) The Minutes of the meeting of the Convenersa Committee held on 11.12.2001 regarding regularisation of Tabulator's issue is recorded.

(ii) Among the 26 sanctioned posts of Junior Assistant which are kept vacant, the petitioners in W.P.No.18547 of 2000 (six persons) are to be considered in preference to the others as per the resolution of the Syndicate dated 14.11.1997.

(iii) The University is to prepare a list of Tabulators appointed by them and they will be absorbed in terms of resolution, dated 11.12.2001 on the basis of seniority taking into account the date of first entry in the University as Tabulators.”

6.The learned standing counsel was at pains to point out that the regular budgetary vacancies for the post of Junior Assistants to accommodate the writ petitioners herein arose only during the budget year 2007-2008 and that they were rightly absorbed with effect from 08.05.2007 vide memo dated 08.06.2007. According to the learned standing counsel, the subsequent syndicate resolution dated 28.04.2009 retrospectively regularizing the writ petitioners with effect from 02.11.2002 was patently illegal and it runs counter to the order of the High Court made on 21.12.2001. He points out that the learned single



W.A(MD) No.1225 of 2023 &
W.P.(MD)No.32194 of 2025

WEB COPY

Judge had only called upon the University to set right the situation.

According to him, the order of the learned single Judge does not call for interference.

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

8.It is seen that the writ petitioners herein were appointed as Tabulators on temporary basis in the year 1996. The writ petitioners herein along with others filed batch of writ petitions before the Madras High Court. Those writ petitions were taken up for disposal and were disposed of on 21.12.2001. The directions issued by this Court had already been extracted (supra). Subsequently, the petitioners herein were absorbed as Junior Assistants with effect from 08.05.2007. On account of their absorptions with effect from 08.05.2007, the writ petitioners came to be placed under what is known as Contributory Pension Scheme with effect from 01.04.2003. Probably, persons like the writ petitioners herein had represented to their employer that even though they were serving the University since 1996, they could not be placed under the Old



W.A(MD) No.1225 of 2023 &
W.P.(MD)No.32194 of 2025

WEB COPY

Pension Scheme in view of their absorption with effect from 08.05.2007 which is subsequent to the cut off date ie., 01.04.2003. The syndicate found merit in their request and passed a fresh resolution on 28.04.2009 resolving to regularize the writ petitioners with effect from 02.11.2002. Based on this syndicate resolution, the memo dated 09.06.2009 was issued in favour of the writ petitioners. Subsequently, quite a few such orders were passed by the university authorities. Copies of the memo dated 19.09.2008, 09.06.2009 and 27.04.2010 issued by the university authorities have been produced before us. However, there was a rethinking and the university chose to make deduction from the writ petitioner's salaries towards their contribution under CPS. Hence, the writ petitioners along with others filed W.P.(MD)No.1218 of 2011. The writ petition was allowed vide order dated 12.02.2014 in the following terms:-

“5. This Court is not inclined to accept the argument advanced on the side of the respondent-University. The relevant Government Order introducing new Contributory Pension Scheme, is not applicable to the petitioners as they are absorbed with retrospective effect from 02.11.2002 and as they are deemed to have been appointed and joined duty as Assistants from 02.11.2002. Though the writ petition is pending from 2011, the respondent-University did not think it fit to file



W.A(MD) No.1225 of 2023 &
W.P.(MD)No.32194 of 2025

WEB COPY

any counter till date. Further, the University after having already taken a decision and implemented the same, cannot unilaterally, withdraw or recall the order thereby preventing them from claiming any benefit under old pension scheme. During the currency of the decision taken by the University, in the manner known to law, any further action by the University contrary to its own decision, is arbitrary, unreasonable, unjustifiable and in violation of principles of natural justice, if at all the University thought fit to recall the order, they ought to have given opportunity of personal hearing to the petitioners before passing appropriate orders and ought to have thereafter made deductions in the salary towards the contribution for the new contributory pension scheme. On this ground alone, the petitioners are entitled to get the relief as sought for herein.

6. The writ petition is allowed as prayed for thereby directing the respondent to stop deducting the contribution from the petitioner's salary under the Contributory Pension Scheme and the amount so far deducted shall be refunded to the petitioners. The above exercise shall be completed within a period of eight weeks from the date of receipt of copy of this order.”

Pursuant to the said direction, the order passed by the learned single Judge in W.P.(MD)No.1218 of 2011 was also duly complied with by the University and the amounts earlier deducted from the writ petitioner's salary was also refunded.



W.A(MD) No.1225 of 2023 &
W.P.(MD)No.32194 of 2025

WEB COPY

9.Now, the only question that calls for consideration is whether the University can do a U-turn at this point of time. When Mary Kanagamony and Mithila Padmini sought benefit under old pension scheme and for settlement of their retirement benefits, their request was not considered. Hence, they filed W.P.(MD)Nos.15885 & 15886 of 2016 seeking issuance of writ of mandamus to direct the employer to settle their pensionary benefits by placing them under the old pension scheme. The learned Single Judge declined to grant relief by relying on the order dated 02.03.2018 made in W.P.(MD)No.2368 of 2012.

10.As rightly pointed out by the learned counsel appearing for the writ petitioners, the factual matrix obtaining in W.P.(MD)No.2368 of 2012 is entirely different. That was a case where an Assistant Registrar was regularised as Assistant Professor. Since he had been regularly serving as Assistant Professor, even though there was no sanctioned post or vacancy, he contended that his retirement age would be 60 years and not 58 years. The learned single Judge rightly held that a non-academic staff could not have been absorbed in an academic position particularly when there was no sanctioned post or vacancy. No exception can be



W.A(MD) No.1225 of 2023 &
W.P.(MD)No.32194 of 2025

taken to the said order. In our respectful view, this order has no bearing whatsoever to the case on hand.

11.The syndicate is the highest decision making body in any university. It chose to give retrospective regularisation in favour of the writ petitioners herein. When the university sought to act contrary to the said resolution, this Court came down on the same and directed the University to act in terms of its earlier resolution. It went on to the extent of directing the university to refund the amount already deducted from the writ petitioner's salaries. More than 17 years have passed since the said resolution was passed. It is of-course open to the syndicate to recall its own earlier resolution. But then, such an action to resile from its earlier stand should be taken within a reasonable period. Definitely, 17 years cannot be termed as a reasonable period. This is all the more so because the persons concerned had also retired from service.

12.This issue can be viewed from another perspective also. An university employee has to be placed either under the old pension scheme or under the new contributory pension scheme. Since no deduction was



W.A(MD) No.1225 of 2023 &
W.P.(MD)No.32194 of 2025

made from the writ petitioners' salaries, they will not come under the contributory pension scheme. By virtue of the order of the learned single Judge, they cannot be placed under the old pension scheme also. Such situation would lead to iniquitous and harsh consequences.

13.In this view of the matter, we are of the view that interference is warranted. Regularization in the very nature of things is a measure taken to alleviate the sufferings of persons who are serving in an establishment without being absorbed.

14.Regularization in the very nature of things takes place outside the scope of the statutory rules. So the question of having sanctioned vacancies to regularize the person does not arise at all. Even de hors the post or vacancy, a person can be regularised depending on the length of his service and the need of the institution. Of-course, in the resolution passed in the year 2001, it had been mentioned that the Tabulators will be absorbed seniority wise based on the availability of the budgetary vacancies. But then, it is open to the syndicate to tweak such a resolution. When the employer wants to do something beneficial for the



W.A(MD) No.1225 of 2023 &
W.P.(MD)No.32194 of 2025

WEB COPY

employee, they need not feel tied hand and foot by the earlier judicial orders. In this view of the matter, the order of the learned single Judge is set aside. The Writ Appeal is allowed. Consequently, the Writ Petition is also allowed. The benefits payable to Mary Kanagamony, Mithila Padmini & Boothalingam Pillai shall be settled within a period of sixteen weeks from the date of receipt of a copy of this order. We have chosen to grant relief not only to Boothalingam Pillai but also to Mary Kanagamony and Mithila Padmini because they are identically placed and the order dismissing their writ petition has been set aside. As a result, their writ petition also has to be treated as allowed. Consequently, connected miscellaneous petitions are closed.

(G.R.S., J.) (R.K.M., J.)
27.02.2026

Index : Yes / No
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WEB COPY



W.A(MD) No.1225 of 2023 &
W.P.(MD)No.32194 of 2025

G.R.SWAMINATHAN, J.
AND
R.KALAIMATHI, J.

rmi/skm

W.A(MD) No.1225 of 2023
&
W.P.(MD)No.32194 of 2025

27.02.2026