BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.12.2025

Pronounced on : 05.01.2026

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MRS.JUSTICE R.KALAIMATHI

WA(MD)No.1241 of 2022
and
CMP(MD)No.9680 of 2022

1.The State of Tamil Nadu,
Rep.by its Secretary to Government
Finance (Pension Department),
Secretariat, Fort St.George,
Chennai – 600 009.

2.The State of Tamil Nadu,
Rep.by its Secretary to Government Finance,
Collegiate Education,
Secretariat, Fort St.George,
Chennai – 600 009.

3.The Director of Collegiate Education,
DPI Campus, College Road,
Nungambakkam, Chennai – 600 006.

4.The Principal,
Raja Doraisingam Government Arts College,
Sivagangai,
Sivagangai District. ... Appellants / Respondents 1, 2, 4 & 5

Vs.

1.V.Govindan,
Assistant Professor (Department of History),
Raja Doraisingam Government Arts College,
Sivagangai,
Sivagangai District. ... Respondent/Petitioner

2.The Principal Accountant General,
Accounts & Entitlements),
391, Anna Salai,
Chennai – 600 018. ... Respondent /3rd respondent

Prayer: Writ appeal filed under Clause 15 of the Letters Patent, to allow the writ appeal and set aside the order of the learned Judge dated 15.07.2016 made in WP(MD)No.8941 of 2015.

For Appellants : Mr.T.Amjadkhan, Government Advocate

For Respondents : Mr.G.Thalaimutharasu for R1

Mr.P.Gunasekaran for R2

JUDGEMENT

The State Government has filed this intra court appeal challenging the order dated 15.07.2016 made in WP(MD)No.8941 of 2016.

2.The petitioner/R1 herein joined Tamil Nadu Maritime Board as Junior Assistant cum Typist on 18.12.1997. He worked in that capacity till 08.04.2008 at Fort Office, Rameswaram. He thereafter joined as Village Administrative Officer on 09.04.2008 at Aranaiyur Village, Ilayangudi Taluk, Sivagangai District. He was working as VAO till 12.10.2008. Thereafter, he joined as Assistant Professor on 13.10.2008 upon being selected by Teachers Recruitment Board in Raja Doraisingam Government Arts College, Sivagangai and he is continuing to serve in the said college till date. It is relevant to note here that the petitioner joined as VAO and then Assistant Professor only after getting prior permission and through proper channel. When the petitioner was working as Junior Assistant cum Typist in Tamil Nadu Maritime Board, he was allotted with Provident Fund account bearing No.348. Contributions were deducted from his salary and he was under GPF scheme. After the petitioner joined the revenue department and then the Education Department, deductions were not made from his salary towards GPF contribution. Even though the petitioner made representations, there was no response from the department. Aggrieved by the same, the petitioner filed WP(MD)No.2151 of 2014 for directing the government to issue appropriate direction to the Principal Accountant General (Accounts and Entitlements), Chennai, in this regard so that the petitioner can continue to come under the Old Pension Scheme. This Court vide order dated 10.02.2014 directed the Principal Accountant General to dispose of the petitioner's representation dated 20.06.2011 on merits and in accordance with law. Pursuant to the said direction, the Principal Accountant General (A&E), Tamil Nadu vide communication dated 09.06.2014 informed the petitioner that his request to be brought under Old Pension Scheme cannot be acceded to. Challenging the said communication, the petitioner herein filed WP(MD)No.8941 of 2015. The learned Single Judge vide order dated 15.07.2016 disposed of the writ petition in the following terms :

> "5.As rightly pointed out by the learned Counsel for the petitioner that as per the letter dated 13.04.2006, it is clearly indicated that an employee who held a post with pensionable service in the State Government and resigned that post to take another post in the State Government after 01.04.2003, be allowed in the old pension scheme subject to the condition that the employee had applied from the later appointment through proper channel. It is further stated that he shall be continued in the existing GPF also. In the case on hand, admittedly, the petitioner has applied for the post of Village Administrative Officer through proper channel in the year

2008. The said factum is not disputed by the third respondent. When the Additional Secretary to Government has already clarified on a query made by the third respondent, there is no impediment for the official respondents to bring the petitioner under the Old General Provident Fund Scheme. Therefore, the following directions are issued to the third respondent : -

“I) The third respondent is directed to communicate to the petitioner with regard to the contributions to be made by the petitioner within a period of two weeks from the date of receipt of a copy of this order.

(II) On receipt of the same, the petitioner is directed to pay the contribution to be demanded by the third respondent within a period of two weeks from the date of receipt of the communication from the third respondent and

(III) The third respondent is directed t? pass respondent appropriate orders bringing the petitioner under the old General Provident Fund Scheme within a period of four weeks from the date of the contributions made by the petitioner.

With the above directions, this Writ Petition stands disposed of.”

Aggrieved by the same, this writ appeal has been filed.

3.While the learned Government Advocate as well as the learned standing counsel for the second respondent would contend that the order impugned in this writ appeal did not call for interference, the learned counsel appearing for the writ petitioner would strongly contend that the approach of the learned Single Judge was justified and that the said approach of the learned Single Judge deserves to be sustained.

4.Our attention was specifically drawn by the learned counsel for the writ petitioner to the proceedings of the Chief Accountants and Secretary, Tamil Nadu Maritime Board, Chennai. It can be seen therefrom that the petitioner was granted a temporary advance of Rs. 16,200/- from out of the GPF Account. Rule 14(1)(a) of The General Provident Fund (Tamil Nadu) Rules has been referred to. The petitioner's GPF number has been mentioned as 348/Marine. He pressed for dismissal of this writ appeal.

5.The question that calls for consideration is whether the demand of the petitioner that he should be placed under the Old Pension Scheme which was upheld by the learned Single Judge is justified. Rule 12(1) and (2) of the Tamil Nadu Pension Rules, 1978 is the relevant statutory provision. It reads as follows :

"12. Conditions subject to which service qualifies. -

(1) The service of a government servant shall not qualify for pension unless his duties and pay are regulated by the Government or under conditions determined by the Government.

(2) For the purposes of sub-rule (1) the expression "service" means service under the Government and paid by the Government from the Consolidated Fund of the State, or a local fund administered by that Government but does not include service in a non-pensionable establishment unless such service is treated as qualifying service by that Government."

Rule 3(o) of the Tamil Nadu Pension Rules reads as follows :

" 'qualifying service' means permanent or officiating service (including temporary service under emergency provisions) rendered in a post included in a pensionable establishment"

6.A careful reading of the aforesaid provision would indicate that the petitioner must show that the Tamil Nadu Maritime Board is a pensionable establishment for the purpose of Tamil Nadu Pension Rules, 1978. For that, the petitioner must show that he was paid by the Tamil Nadu Government from the consolidated fund of the State or a local fund administered by the Government. It is seen that as per Sections 73 and 74 of the Tamil Nadu Maritime Board Act, 1995, all the monies received by or on behalf of the Board shall be credited to a fund called "general account' of the board. The salaries of the employees of the board would be paid out of the monies so credited to the General Account under Section 73 of the Act. The petitioner has nowhere shown that he was paid by the Government of Tamil Nadu from the consolidated fund of the State or any local fund administered by it. On the other hand, it can be seen that he was paid out of the fund called general account of the board under Section 73 of the Act. This vital aspect of the matter was not taken note of by the learned Single Judge. We are of the view that the service put in by the petitioner in Tamil Nadu Maritime Board cannot be called as "government service" for the purpose of Tamil Nadu Pension Rules, 1978.

7.The Tamil Nadu Maritime Board is not a pensionable establishment. The provident fund scheme is applicable to any establishment. The Tamil Nadu Maritime Board could not have been an exception. Unlike private establishments which fall within the purview of the EPF Act, 1952, The Tamil Nadu Maritime Board would have its own provident fund. It is quite possible that it is governed by the rules set out in the General Provident Fund (Tamil Nadu) Rules and that is how the petitioner was allotted with a GPF No.348/Marine. But the allotment of GPF number by itself cannot be determinative of the issue. The petitioner may be entitled to receive pension from the Tamil Nadu Maritime Board if he had continued in service there. But that is beside the point. The question that calls for consideration is whether the petitioner is entitled to be placed under Old Pension Scheme of the Government of Tamil Nadu. To come under OPS, the petitioner has to show that the Tamil Nadu Maritime Board is a pensionable establishment for the purpose of Tamil Nadu Pension Rules. To establish that, the petitioner will have to demonstrate that he was paid out of the consolidated fund of the State or out of the local funds administered by it. Since this aspect of the matter has not been established by him, his case has to necessarily fail. Accroding to G.O.Ms.No 259 Finance (Pension) Department and G.O.Ms.No. 304 Finance (Pension) Department dated 06.08.2003 and 27.05.2004 respectively, New Pension Scheme woud be applicable to those employees recruited after 1.4.2003. Admittedly, the petitioner joined as VAO in the Revenue Department only on 09.04.2008 and Assistant Professor on 13.10.2008. It is clearly after the cut off date.

8.In this view of the matter, the order of the learned Single Judge is set aside. This writ appeal is allowed. Connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (R.KALAIMATHI, J.)
05.01.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
SKM

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