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The Commisisoner Vs K. Nalayini

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Court : Chennai

Decided On : Jun-01-2026

Judge : Honourable Mr Justice N. Sathish Kumar,Honourable Mr.Justice M.Jothiraman

Appeal No. : WA(MD)/771/2026

Appellant : The Commisisoner

Respondent : K. Nalayini

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED: 01.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR AND THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN WA.(MD)No.771 of 2026 and C.M.P.(MD)No.6477 of 2026 1.The Commissioner, Madurai Corporation, Madurai. 2.The Chief Educational Officer, Madurai Corporation Schools Aringar Anna Maligai Madurai-625 002. 3.The Head Master Corporation High School Munichalai Madurai-625 009. . ..Appellants Vs. 1.K.Nalayini 2.The State of Tamil Nadu Represented by

its Principal Secretary School Education Department Secretariat, St.George Fort Chennai-600 009. 3.The Director of School Education, College Road, Chennai-600 006.

4.The Accountant General 261, Anna Salai, Chennai-600 018. ... Respondents PRAYER:- Writ Appeal filed under Clause 15 of the Letter Patent against the

order passed in WP.(MD)No.24167 of 2025 dated 26.11.2025.

For Appellants : Mr.S.Vinayak For R1 : Mr.M.Ajmal Khan, Senior Counsel, for M/s.Ajmal Associates For R2 & R3 : Mr.B.Saravanan, Senior Counsel, for Mr.M.P.Senthil, Counsel for State For R4 : Mr.P.Gunasekaran

JUDGMENT

(Judgment of the Court was made by M.JOTHIRAMAN, J.) Under assail is the order passed in WP.(MD)No.24167 of 2025 dated 26.11.2025.

2.Originally, the first respondent/writ petitioner has filed the above writ petition to quash the order passed by the third appellant herein dated 01.08.2025 and consequently, to direct the appellants to keep the first respondent/writ petitioner under the old pension scheme without disturbing the service of the writ petitioner.

3.It is the case of the first respondent/writ petitioner that based upon the employment seniority registered with Employment Exchange, call letters were issued as early as in the year 1999 and was included in the selection list that had been published on 29.10.1999. The Committee constituted also decided to go ahead with the selection and sent call letters for attending certificate verification to be held on 16.06.2000 in which the petitioners had participated and informed that they were selected, however, no appointment

order was issued. Hence, the writ petitioner and others have filed W.P.No.

15897 of 2002 wherein this Honble Court by order dated 08.05.2002 directed the authorities to consider their representation. However, the said order has not been complied with and therefore, they had filed a contempt petition in Cont.P.No.731 of 2002 whereby recording the statement made by the learned Government Pleader that the Education Department had permitted to fill up 9 vacancies where the petitioners' name was also shown in the list, the Contempt Petition came to be closed. Thereafter, a Review Application also came to be filed by the first appellant herein indicating that nine vacancies were directed to be filled up only based on the seniority and that only 6 could be appointed. The said Review Application was also rejected by this Court vide order dated 06.08.2003 and further directed to issue appointment orders to all the nine writ petitioners, without any further delay. Out of nine writ

petitioners, only 4 were given appointment and the writ petitioner was served with the order of appointment only on 31.10.2003. Though the petitioner was appointed belatedly, such delay was only attributed to the authorities. The writ petitioner has been placed under the old pension scheme and all the deductions were made under the old pension scheme and he was also assigned with PF Number up to 2019. Thereafter, he was also assigned with GPF Account No.EDN/171490. Based on an audit objection raised in the auditing on 30.07.2025, an order came to be passed on 01.08.2025 calling upon the writ petitioner to register under new pension scheme by obtaining IFHRMS ID. He challenged the same by way of writ petition. The learned Writ Court allowed the writ petition on the ground that even after a categorical direction to appoint the nine writ petitioners, in which, the first respondent/writ petitioner was also one of the writ petitioners, only four of them have been appointed much before the cut-off date, ie., 01.04.2003 and the writ petitioner was appointed, after the cut-off date and therefore, the writ petitioner would have a right

to continue under the old pension scheme only. Aggrieved over the same, the official respondents therein have filed the present writ appeal.

4.The learned counsel appearing for the appellants would submit that the first respondent was appointed only on 03.11.2003, after the statute

cut-off date 01.04.2003, as per G.O.(Ms)No.259, Finance (Pension) dated 06.08.2003 contemplates all Government and Local Body employees appointed on or after 01.04.2003 squarely falls under CPS and Tamil Nadu Pension Rules, 1978, cease to apply to such appointees. While implementing the salary distribution, the first respondent was inadvertently continue under GPF pension method, which was later, discovered as an administrative error during the course of audit inspection. Based on the audit objection, necessary corrective steps were directed to be taken. Consequently, the third appellant issued the impugned show cause notice dated 01.08.2025 calling upon the first respondent to explain the irregular continuance under GPF.

5.The learned counsel would further submit that the other similarly placed persons, who were appointed after 01.04.2003 in Madurai Corporation School including those who were appointed even within a few months, have been duly brought under CPS. The learned Writ Court ought not to have been given much weightage to the order passed in W.P.No.15897 of 2002 since there was no positive direction to provide appointment. Mere representation will not give any statute right of appointment. The learned Writ Court erroneously applied the judgment of the Hon'ble Apex Court in Civil Appeal No.3176 & 3177 of 2022. The said decision is not applicable to the facts and

circumstances of the case on hand. The learned Writ Court failed to consider the review order passed by this Court earlier, which was clearly fall after the cut-off date and G.O.Ms.No.259 came into force and, that will not give any vested or retrospective right. The selection and

appointment is entirely different. Therefore, the order of the learned Writ Court is un-sustainable in law and the same is liable to be dismissed. To strengthen his contention, he has relied upon the judgment of the Hon'ble Division Bench of this Court in WP.Nos.9027 & 9035 of 2019 dated 10.06.2019.

6.Per contra, the learned Senior Counsel appearing for the first respondent would submit that the first respondent has been placed under the old pension scheme, for more than 20 years and she was treated on par with the similarly placed persons. Since the similarly placed persons were issued appointment order on 12.12.2002 and even though she should have been appointed on that day, on account of inaction of the authorities, she was belatedly appointed. Admittedly, in earlier writ proceedings, out of nine writ petitioners, only four of them were appointed on 12.12.2002 and the first respondent herein was appointed, nearly after 10 months, by an order of appointment dated 30.10.2003. The ratio laid down by the Hon'ble Apex Court in Civil Appeal No.3176 & 3177 of 2022 is squarely applicable to the

facts and circumstances of the present case. The learned Writ Court upon

considering all the aspects allowed the writ petition and there is no reason warrants to interfere with the order of the learned Writ Court. To strengthen his contentions, the learned Senior Counsel has relied upon the judgment of the Hon'ble Apex Court reported in (2024) 17 SCC 729, P.Ranjtharaj Vs. State of Tamil Nadu and others to show that merely because the writ petitioner was appointed at a later point of time would not deprive them from claiming to become a member as Tamil Nadu Pension Rules, 1978 is applicable to employees on or before 01.04.2003.

7.We have considered the submissions made on either side and perused the records carefully.

8.It is seen from the records that writ petitioner was issued with call letter dated 08.10.1999 in terms on her employment seniority, the Commissioner of Madurai Corporation published the selection list on 29.10.1999, in which the writ petitioner's name was included under the category of drawing teacher. The Government issued the order of appointment and method of selection to the post of special teacher run by the Corporation of Chennai, Madurai and Coimbatore vide G.O.(Ms)No.104, School

Education Department, dated 24.04.2002. The Committee was also constituted to go ahead with the selection process. The Commissioner, Madurai Corporation sent call letter dated 12.06.2000 and and she was selected. But, appointment order was not issued. The authorities has not appointed the special teachers even after their selection and therefore, first respondent/writ petitioner and others have filed a writ petition in WP.No. 15897 of 2002 and this Court vide order dated 08.05.2002 to consider their representation, in accordance with law. As the order of this Court was not complied with, they have filed contempt petition in Cont.P.No.731 of 2002 and this Court vide order dated 04.12.2002 recorded the statement of the learned Government Pleader that a letter dated 03.12.2002 of the Education Department permitted the school to fill up the nine vacancies is produced and the said list referred the name of the first respondent/writ petitioner along with 8 others. Accordingly, the said contempt petition came to be closed.

9.It is also seen from the records that the Commissioner, Madurai Corporation has filed a review application in Rev.Sub.Appl.Nos.179 & 160 of 2003 over the order passed in the abvoe contempt petition on the ground that the letter of the Education Department dated 03.12.2002

permitted only filling up of 9 vacancies in accordance with the seniority of the employment

exchange. This Court vide order dated 06.08.2003 rejected the contention of the Madurai Corporation and had directed the authorities therein to appoint nine writ petitioners therein, without any further delay. Meanwhile, out of nine writ petitioners therein, four of them were appointed on 12.12.2002. Thereafter, only the first respondent/writ petitioner came to be appointed on 31.10.2003 and she joined duty on 03.11.2003.

10.It is relevant to not that though the writ petitioner was appointed after the cutoff date, the appointment was one among the nine candidates and the first respondent/writ petitioner cannot be discriminated against the other candidates who were appointed on 12.12.2002. Since they were batch-mate, and they were participated in the same selection process. There is absolutely no reason to discriminate the first respondent/writ petitioner to bring under new pension scheme. Since she was not appointed along with her batch-mate and as such the delay in making her appointment is exclusively attributable to the authorities, this Court is of the view that merely because the first respondent was appointed belatedly on account of the inaction of the authorities, by virtue of the order of this Court, the right conferred upon her and as such the conferred right cannot be taken away, that too, after a period of two decades. The issuance of show cause notice dated 01.08.2025,

whereby, the writ petitioner was directed to cooperate to bring her under CPS, in accordance with the G.O.(Ms)No.259 dated 06.08.2003, is un-sustainable in law. The learned Writ Court has rightly approached the issue by relying upon the proposition laid down by the Hon'ble Apex Court in Civil Appeal No.3176 & 3177 of 2022, dated 25.04.2022. There is no reason warrants to interfere with the order of the learned Writ Court

and hence, this writ appeal is liable to be dismissed.

11.In the result, this writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed. [N.S.K., J.] & [M.J.R., J.] 01.06.2026 Index :Yes/No Internet :Yes GNS To 1.The Principal Secretary School Education Department Secretariat, St.George Fort Chennai-600 009. 2.The Director of School Education, College Road, Chennai-600 006. 3.The Accountant General 261, Anna Salai, Chennai-600 018.

N.SATHISH KUMAR, J.

AND

M.JOTHIRAMAN, J.

GNS WA.(MD)No.771 of 2026 01.06.2026

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