

**Central Administrative Tribunal
Madras Bench**

MA/310/00056/2018 (in)(&) OA/310/00112/2018

Dated Wednesday the 31st day of January Two Thousand Eighteen

P R E S E N T

Hon'ble Mr.R.Ramanujam, Member(A)

1. E.Perumalammal
2. P.Kumar
3. P.Sarojini
4. P.Banu
5. G.Maheswari
6. G.Kumar
7. Ramakrishnan
8. S.Kanagarathinam
9. Pachaivazhiamman
- 10.K.Dhanaseelan .. Applicants

By Advocate **Mr.P.Rajendran**

Vs.

1. The Union Territory of Puducherry, rep by the Chief secretary to Government, Puducherry.
2. The Director of Health & Family Welfare, Government of Puducherry, Puducherry. .. Respondents

ORAL ORDER

Pronounced by Hon'ble Mr.R.Ramanujam, Member(A)

Heard. Learned counsel for the applicants would submit that since this matter is similar to OA 110/2018, this OA may be disposed of on the same lines.

2. MA for joining the applicants together to file a single application is allowed.

3. The applicants have filed this OA seeking a direction to the respondent to refrain from applying the New Pension Scheme to the applicants, apply the Old Pension Scheme and grant them all consequential benefits.

4. Learned counsel for the applicants submits that the applicants are working in the Health and Family Welfare Department, Union Territory of Puducherry. They were initially appointed as daily rated employees before 1.1.2004 and absorbed in regular establishment after 1.1.2004. They claim pension under the Old Pension Scheme since they entered service before 1.1.2004. However, the respondents have applied New Pension Scheme to them as their services were regularised only after 1.1.2004. Accordingly 10% of Basic Pay plus Dearness Allowance is being deducted from their pay every month. Aggrieved, they have filed this OA seeking the aforesaid relief.

5. Learned counsel for the applicants submits that the applicants were similarly placed as the applicants in OA 749/2015 & Batch decided in their favour by the Principal Bench of the Tribunal and as such they are eligible for the relief prayed for. He further cites the judgement of the Hon'ble High Court of Madras in WP No. 2110/2014, MP No.1/2014 dated 19.03.2014 wherein it has been stated that a person already in service either as contingent staff or temporary staff continuously and absorbed in permanent establishment on or after 1.1.2004 could not be termed as "new entrant" into the service and the New Pension Scheme could be applied only to persons appointed for the first time as casual or temporary or permanent employee on or after 1.1.2004. Since the applicants were initially appointed as daily rated employees prior to 1.1.2004 and absorbed in regular posts after 1.1.2004, they are entitled to get the benefits of the Old Pension Scheme, it is contended.

6. Learned counsel for the applicants further submits that the applicants would be satisfied if they are permitted to make a fresh representation regarding their grievance citing the Principal Bench's order and the order in the said WP and the respondents

directed to dispose of such representation within a time limit to be prescribed by this Tribunal.

7. Keeping in view the limited relief sought I deem it appropriate to permit the applicants to submit a detailed representation citing the Principal Bench Order in OA 749/2015 & batch dated 17.11.2016 as well as the Judgement of the Hon'ble High Court of Madras in WP No. 2110/2014, MP No.1/2014 dated 19.03.2014 as relied on by the applicant in this regard to the competent authority within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the competent authority shall pass a reasoned and speaking order in accordance with law within a period of two months thereafter.

8. The OA is disposed of accordingly at the admission stage.

(R.Ramanujm)
Member(A)
31.1.2018

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