

ITEM NO.12

COURT NO.13

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 14438-14439/2019

(Arising out of impugned final judgment and order dated 02-11-2018 in RAMD No. 6/2015 19-06-2014 in WPMD No. 2345/2007 passed by the High Court Of Judicature At Madras At Madurai)

P. RANJITHARAJ

PETITIONER(S)

VERSUS

THE STATE OF TAMIL NADU & ORS.

RESPONDENT(S)

WITH

Diary No(s). 9915/2019 (XII)
(IA No. 50442/2019 - CONDONATION OF DELAY IN FILING)

SLP(C) No. 3360-3361/2020 (XII)
(I.A. 42727/2021 - PERMISSION TO FILE ADDL. DOCUMENTS, I.A. NO. 6920/2022 - PERMISSION TO FILE ADDLN. DOCUMENTS, I.A. NO. 21723/2022 - PERMISSION TO FILE ADDLN. DOCUMENTS, I.A. Dy. No. 161017/2021 - FOR IMPLEADMENT, I.A. DY. NO. 165910/2021 - FOR IMPLEADMENT)

Date : 19-04-2022 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AJAY RASTOGI
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Petitioner(s) Mr. R. Lakshmanan, Adv.
M/S. Mukesh Kumar Singh And Co., AOR
Ms. Kajal Rani, Adv.
Mr. Amar Kumar Raizada, Adv.
Mr. Sagar Kumar, Adv.
Mr. Vipin Kumar Saxena, Adv.
Mr. Jeetendra Kumar, Adv.
Mr. P.S. Herwal, Adv.
Mr. T.N. Saxena, Adv.

Mr. Col. R. Balasubramanian, Sr. Adv.
Mr. V. Balaji, Adv.
Mr. Asaithambi MSM, Adv.
Mr. C. Kannan, Adv.
Ms. Neha Singh, Adv.

Mr. Rakesh K. Sharma, AOR

For Respondent(s)

Mr. M. Yogesh Kanna, AOR

Mr. Amit Anand Tiwari, AAG
Dr. Joseph Aristotle S., AOR
Ms. Mary Mitzy, Adv.
Ms. Devyani Gupta, Adv.
Ms. Tanvi Anand, Adv.

Mr. K. V. Vijayakumar, AOR

Ms. Madhvi G. Divan, Ld. ASG (NP)
Ms. Vimla Sinha, Adv.
Ms. Seema Bengani, Adv.
Ms. Gargi Khanna, Adv.
Ms. Nidhi Khanna, Adv.
Mr. Manish, Adv.
Mr. Raj Bahadur Yadav, AOR

Mr. B. V. Balaram Das, AOR

Mr. B. Balaji, AOR

Mr. M.P. Parthiban, AOR

UPON hearing the counsel the Court made the following
O R D E R

SLP(C) No. 14438-14439/2019 & Diary No. 9915/2019

Heard.

Arguments concluded.

Judgment reserved.

SLP(C) No. 3360-3361/2020

Applications for impleadment are allowed.

The undisputed facts culled out from the record are that the advertisement was published on 24th August, 2002 inviting applications for selection to the post of Assistant Medical Officer and the provisional select list came to be notified by the

Commission after the selection process was over on 3rd January, 2003 and the candidates who were placed in the provisional select list including petitioner were appointed vide order dated 6th August, 2003 and vide later order dated 31st October, 2003.

Learned counsel for the petitioner submits that since recruitment was made on 3rd January 2003, in sequel thereto, they became eligible to become member of the pension scheme which was applicable to the employees who were appointed on or before 1st April, 2003.

The notification placed on record dated 6th August, 2003 indicates a new contributory pension scheme based on defined contributions to be applicable to the newly recruited employees and it will apply to all employees recruited on or after 1st April, 2003.

At the same time, the amendment has been made in exercise of powers conferred under proviso to Article 309 of the Constitution under the Tamil Nadu Pension Rules, 1978 and it was made explicit that these rules shall not apply to Government servants appointed on or after 1st April 2003, to services and posts in connection with the affairs of the State which are borne on pensionable establishment, whether temporary or permanent.

Indisputedly, a complete batch of persons who were selected pursuant to advertisement dated 24th August, 2002 were appointed vide order dated 6th October, 2003 and later order dated 31st October 2003. Since the appointment is indisputedly after 1st April 2003, they will be governed in accordance with the new contributory pension scheme in terms of the G.O. dated 6th August 2003 (Annexure

P-2).

The submission of the learned counsel for the petitioner that publication of the provisional select list by the Commission on 3rd January, 2003 makes them eligible to become members of the Tamil Nadu Pension Rules, 1978 is completely misplaced for the reason that mere publication of the provisional select list on 3rd January, 2003 would not consider the petitioner to be recruited and the recruitment process will be completed only after the recommendations made by the Commission are accepted by the State Government and appointments are made in sequel thereto.

Admittedly, in the instant cases, the appointments were made much after the cut-off date, i.e., 1st April, 2003 and this is what the High Court has considered in the impugned judgment.

The special leave petitions are without substance and accordingly dismissed.

Pending application(s), if any, shall stand disposed of.

(POOJA SHARMA)
COURT MASTER (SH)

(BEENA JOLLY)
COURT MASTER (NSH)