

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 25.09.2026

PRONOUNCED ON : 30-09-2026

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CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

WA(MD) Nos. 440 to 444 of 2026

CNR:{HCMD010325792026}

and



Case QR

CMP(MD) Nos. 4005, 4006, 4007, 4008, 4009 and 5231 of 2026

WA(MD) No. 440 of 2026

1. The Principal Secretary to Government
Finance (PC-2) Department, Secretariat,
Fort St. George,
Chennai 600 009.
2. The Principal Secretary to Government,
Health and Family Welfare (A1) Department,
Secretariat, Fort St George,
Chennai -600 009.
3. The Director of Medical Education and
Research Department,
Kilpauk, Chennai - 600 010.
4. The Director of Treasuries and Accounts,
3rd Floor, Perasiriyar K.Anbzhagan Maaligai,
No.571, Anna Salai, Nandanam,
Chennai - 600 035.

..Appellant(s)

Vs

1. Dr.V.Sathyavan



2. Dr.T Rajagopal

3. R.Venkataratnam

4. Dr.V. Soundarajan

5. Dr.S. Nagarathinam

6. Dr.V Narayanasamy

7. Prof.Dr M Eswaran

8. Dr. S. Kamaraj

9. Dr.Kalaivani A

10.Dr.S Ramasamy

11.Dr.R. Ganesan

12.Dr.Chandramathi

13.Dr.G. Chandrakanthan

14.Dr.A. Natarajan

15.Dr.A. Raju

16.Dr.V. Natarajan

17.Dr.P. Ravikumar

18.Dr.V. D Raghavendran

19.Dr.N. Krishnamoorthy

20.Dr.N. Thambi Arul

21.Dr.S. Prathab Anbunathan

22.Dr.S. Selvam

23.Prof.Dr.M Rajaguru



24.Prof.Dr.S Rajarajeswari

25.Dr.S.Balakrishnan

26.Dr.Rathi Aditynan D

27.Dr.M. Vasantha

28.Dr.U.Sornamala

29.Dr.A. Jaffarullah

30.Dr.Felsia Newton

31.Dr.C. Shanmugasundaram

32.Dr.Dhamayanthi A

33.Dr.G. Krishnan

34.V.Ramamoorthy

35.Dr.P. Vedamoorthy

36.Dr.D. Meikandan

37.Dr.M. Kamaraj

38.Dr.A. Mossadeq

39.Dr.P. Kalyani

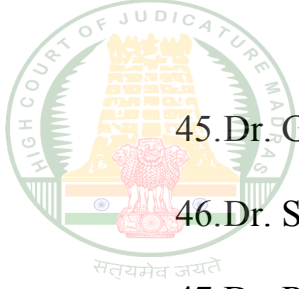
40.Dr.N. Vijayasankaran

41.Dr.A. Jayaveer

42.Dr.V. Murugesan

43.Dr.M. Arunagiri

44.Dr.M. Chandra



45. Dr. G. Regupathy

46. Dr. S. Indirani

47. Dr. R. Pugalendhi

48. R. Nalini

..Respondent(s)

WA(MD) No. 441 of 2026

1. The Principal Secretary to Government
Finance (PC-2) Department Secretariat,
Fort St George, Chennai 600 009
2. The Principal Secretary To Government
Health Family Welfare A1,
Department Secretariat,
Fort St. George,
Chennai 600 009
3. The Director Medical Education Research
Department, Kilpauk Chennai 600 010.
4. The Director Of Treasuries And Accounts,
3rd Floor, Perasiriyar K. Anbazhagan Maaligai,
No.571, Anna Salai, Nandanam,
Chennai-600 035.

..Appellant(s)

Vs

S.M.Mohideen Sahib

..Respondent(s)

WA(MD) No. 442 of 2026

1. The Principal Secretary,
Finance (PC-2) Department,
Secretariate,



St.George Fort,
Chennai-600 009.

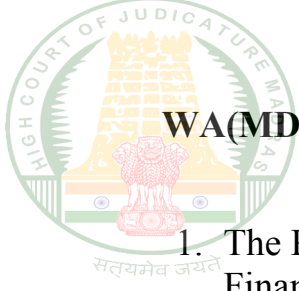
2. The Principal Secretary,
Health and Family Welfare Department,
Secretariat, St.George Fort, Chennai-600 009.
3. The Director Of Medical Education And
Research Department,
Kilpauk, Chennai - 10.
4. The Director Of Medical And Rural Services
No 359- 361, DMS Campus,
Anna Salai Teynampet,
Chennai 600 006.
5. The Director of Medical And Rural
Services [ESI]
No 359- 361, DMS Campus,
Anna Salai Teynampet,
Chennai 600 006.
6. The Director,
Public Health and Preventive Medicine,
No.359, Anna Salai,
DMS Campus, Teynampet,
Chennai-600 006.
7. The Director of Treasuries and Accounts,
3rd Floor, Perasirayar K.Anbazzhagan Maligai,
571, Anna Salai,
Nanthanam,
Chennai.

Vs

..Appellant(s)

1. N.Balasubramanian
2. Dr T Jeyaramakrishnan

..Respondent(s)

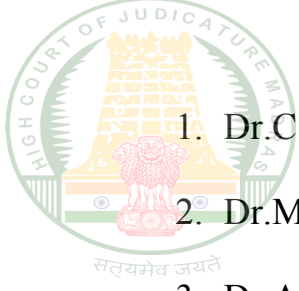


WA(MD) No. 443 of 2026

1. The Principal Secretary
Finance (PC-2) Department,
Secretariate,
St.George Fort,
Chennai-600 009.
2. The Principal Secretary to Government
Health and Family Welfare Department
Secretariat St George,
Fort Chennai 600 009
3. The Director Of Medical Education and
Research Department,
Kilpauk, Chennai.
4. The Director of Medical and Rural Services
No 359- 361, DMS Campus,
Anna Salai Teynampet,
Chennai 600 006.
5. The Director of Medical And Rural
Services [ESI]
No 359- 361, DMS Campus,
Anna Salai Teynampet, Chennai 600 006.
6. The Director
Public Health and Preventive Medicine,
No 359 Anna Salai,
DMS Campus Teynampet,
Chennai 600 006.
7. The Director Of Treasuries And Accounts,
3rd Floor,
Perasiriyar K.Anbazhagan Maligai,
571, Anna Salai,
Nanthanam,
Chennai.

Vs

..Appellant(s)



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1. Dr.C.Kamaraj
2. Dr.M.Jeyaprakash
3. Dr.A.J.Thirruvuvathas
4. Dr.C.Annaroja
5. Dr.C.Somasundaram
6. Dr.S.Koilpillai Packiaraj
7. Dr.S.Syed Ibrahim
8. Dr.T.R.Somasundaram
9. Dr.N.Elangovan
- 10.Dr.Marina Packiaraj
- 11.Dr.M.PrabakaraSundaralingam
- 12.Dr.M.Sakthivel
- 13.Dr.V.Jeganathan
- 14.Dr.S.Subbaiah
- 15.Dr.A.Mahakrishnan
- 16.Dr.M.C.A.Kallelullah
- 17.Dr.S.Jeyalakshmi
- 18.Dr.P.Chokalingam
- 19.Dr.K.Govindan
- 20.Dr.N.T.Srinivasan
- 21.Dr.V.Veerasamy
- 22.Dr.Chinnasamy Prabhakaran



23.Dr.Jeevankumar

24.Dr.Indirani Kuppusamy

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..Respondent(s)

WA(MD) No. 444 of 2026

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Finance (PC-2) Department,
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St.George Fort,
Chennai-600 009.

2.The Principal Secretary to Government
Health and Family Welfare Department
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Fort Chennai 600 009

3.The Director Of Medical Education and
Research Department,
Kilpauk, Chennai.

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No 359- 361, DMS Campus,
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5. The Director of Medical And Rural
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571, Anna Salai, Nanthanam,
Chennai.

..Appellant(s)

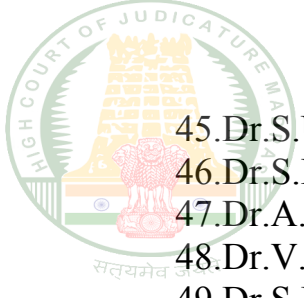
Vs

1.Dr.P.Sivalingam



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- 2.Dr.N.Durairaj
- 3.Dr.M.Kalyanasundaram
- 4.Dr.I.Shanmuganathan
- 5.Dr.S.Sankaramoorthy
- 6.Dr.B.K.Shanmugam
- 7.Dr.S.Murugan
- 8.Dr.S.M.Arumugam
- 9.Dr.R.Chandrasekaran
- 10.Dr.S.Rajendran
- 11.Dr.M.Ramasamy
- 12.Dr.S.Nagammal
- 13.Dr.G.Shanmugavel
- 14.Dr.D.Thamarai
- 15.Dr.M.Marimuthu
- 16.Dr.A.Chidambaram
- 17.Dr.M.Palanisamy
- 18.Dr.M.P.Mohamed Sheriff
- 19.Dr.A.Malathi
- 20.Dr.S.V.R.Sanjeevi Rajah
- 21.Dr.K.Srinivasan
- 22.Dr.K.Navaneetham Krishnasamy
- 23.Dr.S.Chandrabai
- 24.Dr.R.Sundararajan
- 25.Dr.M.Chidambaram
- 26.Dr.M.Ramasamy
- 27.Dr.R.Sundararajan
- 28.Dr.P.Jeevaraj
- 29.Dr.S.Munisamy
- 30.Dr.V.D.Krishnaram
- 31.Dr.A.Yamunadevi
- 32.Dr.V.Seetharaman
- 33.Dr.P.Kannan
- 34.Dr.R.Durairaj
- 35.Dr.T.Prabhakaran
- 36.Dr.C.Gopalakrishnan
- 37.Dr.S.S.Rajendran
- 38.Dr.P.Jagadeesapandian
- 39.Dr.K.Raman
- 40.Dr.S.Ahanatha Pillai
- 41.Dr.N.Krishnaveni
- 42.Dr.M.Ravinarayanan
- 43.Dr.V.Nayarayanan
- 44.Dr.P.Lakshmanan

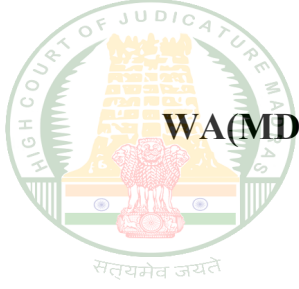


- 45.Dr.S.Ulaganayaki
- 46.Dr.S.Francis Dominic Raj
- 47.Dr.A.Jayalakshmi
- 48.Dr.V.O.A.Kathiresan
- 49.Dr.S.Ramarajan
- 50.Dr.A.Srinivasan
- 51.Dr.P.Ponnusamy
- 52.Dr.P.Selvaraj
- 53.Dr.P.Nithyanandam
- 54.Dr.R.Karunaikadal
- 55.Dr.S.Selvamoni
- 56.Dr.A.Selvaraj Jeyaseelan
- 57.Dr.M.Sankareswari
- 58.Dr.L.Subramanian
- 59.Dr.M.S.Somanathan
- 60.Dr.A.V.Samuvel
- 61.Dr.S.Seetharaman
- 62.Dr.S.Sivaraj
- 63.Dr.V.Saraswathi
- 64.Dr.S.Saraswathy
- 65.Dr.Promilda
- 66.Dr.P.Jayalakshmi
- 67.Dr.S.Rajendran
- 68.Dr.P.Indira Perathamby

..Respondent(s)

COMMON PRAYER

Writ Appeals filed under Clause 15 of Letters Patent, praying to prefer this Memorandum of Grounds of Writ Appeal against the order passed in WP(MD). No.9361, 32007, 9757, 9074 & 9269 of 2025 and other batch cases dated 16.12.2025.



WA(MD) No. 440 of 2026

For Appellant(s):

Mr.Vijay Narayan
Advocate General
assisted by Mr.M.P.Senthil
Government Pleader

For Respondent(s):

Mr.L.Chandrakumar
for Mr.T.Sakthi Kumaran
(RR1, 3, 5 to 39, 42 to 48)
and Mr.Shazim Shagar
(RR40 & 41)
R2 & R4 (Died)

WA(MD) No. 441 of 2026

For Appellant(s):

Mr.Vijay Narayan
Advocate General
assisted by Mr.M.P.Senthil
Government Pleader

For Respondent(s):

Mr.K.Venkatramani
Senior Counsel
for Mr.V.M.Jagadeesha Pandian

WA(MD) No. 442 of 2026

For Appellant(s):

Mr.Vijay Narayan
Advocate General
assisted by Mr.M.P.Senthil
Government Pleader

For Respondent(s):

Mr.K.Chellapandian (R1 & R2)
Senior Counsel
for Mr.A.K.Baskara Pandian

WA(MD) No. 443 of 2026

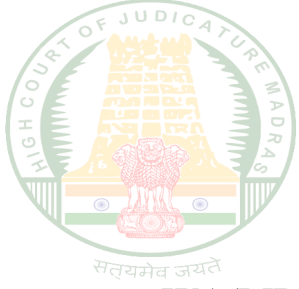
For Appellant(s):

Mr.Vijay Narayan
Advocate General
assisted by Mr.M.P.Senthil
Government Pleader

For Respondent(s):

Mr.K.Chellapandian (RR2 to 5, 7 to 9, 11, 14 to 20, 22 to 24)

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WA(MD) No. 444 of 2026

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Senior Counsel
for Mr.A.K.Baskara Pandian
No Appearance (RR6, 10, 12 & 13)
R21-died

For Appellant(s):

Mr.Vijay Narayan
Advocate General
assisted by Mr.M.P.Senthil
Government Pleader

For Respondent(s):

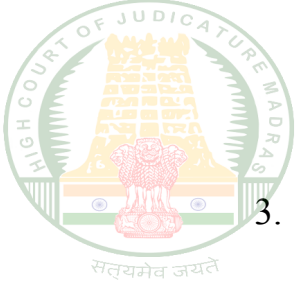
Mr.Isaac Mohanlal (RR1 to 4, 7, 8, 10 to 32, 34 to 37, 39 to 42, 45 to 59, 61, 63 to 67)
Senior Counsel
for Mr.C.Karthik
No Appearance (RR5, 9, 33, 38, 44, 60, 68)
R6, R43 and R62 (died)

COMMON JUDGMENT

(Judgment of the Court was delivered by C.V.Karthikeyan J.)

These appeals have been filed questioning the common order of a learned Single Judge dated 16.12.2025, by which order, the writ petitions filed by the respondents herein had been allowed.

2. The said writ petitions have been filed by the respondents in the nature of a certiorarified mandamus seeking records relating to G.O.Ms.No.30 (PC-2) Department dated 05.02.2025 and had to set aside the same and also to set aside the consequential orders. The learned Single Judge in his common order had set aside the said Government Order and also set aside the consequential orders complained by the writ petitioners, necessitating filing of these writ appeals by the respondents therein /State.

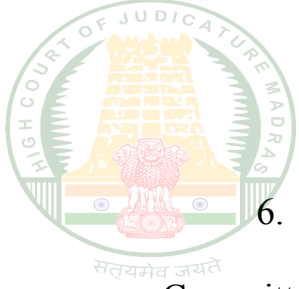


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3. In view of the fact that the issues in all the writ appeals are similar and same grounds have been urged, a common judgment is pronounced.

4. In one of the writ appeals/W.A.(MD)No.440 of 2026, C.M.P. (MD)No.5231 of 2026 had been filed seeking to implead the petitioners therein as further respondents. However, they align themselves with the cause of the writ petitioners/respondents herein and since elaborate arguments have been advanced, we are of the view that there is no necessity to implead them as respondents as they would anyway be bound by the order passed by us. In view of the above fact, before proceeding further, C.M.P.(MD)No.5231 of 2026 stands dismissed.

5. The writ petitioners were all pensioners/family pensioners. Either they or their predecessors had worked as Doctors under the Government of Tamil Nadu. It would have been a more satisfying career for each one of them, had they continued untroubled with external factors and discharged their noble profession. But the Tamil Nadu Government Doctors Association had raised a representation that the Doctors functioning under the Government of Tamil Nadu did not have adequate promotional opportunities and stagnated in a particular level and therefore sought redressal.



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6. The Government examined this representation and formed a Committee and on the basis of its report dated 30.08.2009 issued G.O.Ms.No.354, Health and Family Welfare Department dated 23.10.2009. The troubles of the Doctors commenced. Their focus now shifted to the remuneration that they would get consequent to the representation made by their Association and the report of the Committee. They are still disturbed, though they have all retired earlier to 23.10.2009. Many of them have died. Their legal representatives are receiving family pension. Those, who are alive are constantly grieving.

7. It would had been a far far better situation, if they are permitted to reflect, when in vacant or pensive mood, about their successes and triumphs in treating patients, rather than suffering for the alleged denial of adequate pension. They have now approached the corridors of the Court, an unknown and unwanted place for them.

8. Be that as it may, in G.O.Ms.No.354, referred supra, the Government had examined the representation and granted Dynamic Assured Career Progression (DACP) to compensate lack of promotional opportunities and stagnation at various levels. The Government had examined the modalities of providing DACP and had issued various directions granting such career



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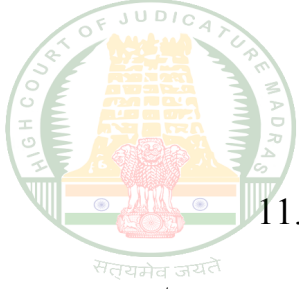
progression. The Government also had to equalise the Doctors working in hospitals, who come under the Director of Medical and Rural Health Services and Director of Public Health and Preventive Medicines and who are normally categorised as Assistant Surgeons, Senior Assistant Surgeons, Civil Surgeons and Senior Civil Surgeons and the Doctors, who come under the Director of Medical Education categorised as Assistant Professors, Associate Professors and Professors. In order to provide an incentive, since stagnation had been identified in each one of the post in both the streams, by the said Government Order, a new rank of Chief Civil Surgeon was created. It was only a rank and would not mean that the person is the head of an Administrative Unit. It only entitled him to receive higher pay than the Civil Surgeon. Similarly, in the Education field, a new grade of Senior Assistant Professor was created, again providing pay protection. But, he can never be an Associate Professor. It is just a step up from the Assistant Professor.

9. We are not delving into this particular Government Order, since it is not the subject matter of challenge before this Court. But we only refer to the further steps taken by the Government, which has been followed by this unfortunate litigation. The time bound promotions were then clarified by a further Government Order in G.O.Ms.No.245 dated 31.10.2013, wherein the Doctors were held out to be entitled for promotion on completion of 8/15/17/20 years of service. Then there was a confusion as to when this particular time



bound promotion would take effect. It was first stated that it would be from the date of issuance of G.O.Ms.No.245 dated 30.10.2013, but later by G.O.Ms.No.301 dated 06.10.2025, it was held that such time bound promotions would be given from the date of G.O.Ms.No.354 dated 23.10.2009.

10. This consideration by the Government gave rise to further complications. The Doctors, who had retired started to claim pension on the basis of time bound promotions. They had not been given time bound promotions, but they claimed that when they had completed 8/15/17/20 years of service, they should have been promoted, though they had actually not been, but should have been considered as having been promoted and therefore sought revision of pension. The Government had issued an answer for the same and passed G.O.Ms.No.236, Finance (Pay Cell) Department, dated 12.07.2018 revising the pension/family pension of Medical Officers/Professors, who had retired prior to 23.10.2019/ date of issuance of G.O.Ms.No.354. The Government further granted pensionary benefits with prospective effect in view of the financial commitment, which is a significant factor to be considered by the Government, since the Government had to budget the benefits of not only the Doctors, but the entire public and its welfare scheme for the entire public and the whole gamut other public servants. However, the pension would be revised with reference to higher pay scale notionally and monetary benefits would be granted prospectively.



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11. Thereafter, for the reasons best known and which we are not inclined to examine, the Government issued show cause notices on 23.05.2020 proposing to cancel G.O.Ms.No.236. By this show cause notices, the Government had stated that the enhanced pension /family pension would be restored to the rates admissible prior to the issue of G.O.Ms.No.236, however, without any recovery. The Government called for objection to be addressed by anybody who wanted to raise objections. This show cause notice was challenged in a batch of writ petitions in W.P.(MD)No.7905 of 2022 etc., batch. The writ petitions came up for consideration before a learned Single Judge of this Court, who by a common order dated 12.12.2023 had held as follows:

“15.Since the main grievance of the petitioners is with regard to the matters stated under Paragraph Nos.4, 5 and 6 of the impugned Show Cause Notice, this Court is of the view that part of the Show Cause Notice alone can be set aside by granting liberty to the petitioners and all similarly placed persons to make their representations to the Government and on receipt of the same, the Government shall consider the representations in the light of the observations already made and uninfluenced by the contents of Paragraph Nos.4, 5 and 6 of the impugned Show Cause Notice and shall pass orders.”

12. Paragraph Nos.4, 5 and 6 referred by the learned Single Judge related to the grant of pension and in para 5 and 6, it had been stated as follows:

“5. After careful consideration of the above aspects and also considering the estimated recurring expenditure involved, it is considered that it may not be feasible to sustain the orders issued in the Government Order sixth cited.

6. Hence, the Government Order sixth cited is proposed to be cancelled with prospective effect, and the enhanced pension/family pension drawn by Medical



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Officers/their family members by virtue of Government Order sixth cited will be restored to the rates admissible prior to the issue of Government Order sixth cited, without any recovery from their pension/family pension. If the Medical Officers / their family members, who are in receipt of enhanced pension/family pension based on the orders issued in Government Order sixth cited have any objection to the same, representations in this regard should be addressed to the Deputy Secretary to Government, Finance(Pay Cell)Department, Secretariat, Chennai - 9 so as to reach on or before 19.06.2020 failing which it will be considered that there is no objection to Government's proposed action."

13. In para 4, the considerations, which lead to the confusions in para 6, have been stated.

14. Thereafter, the Government on considering the said directions issued by the learned Single Judge, passed G.O.Ms.No.30, Finance (PC2), Department dated 05.02.2025 providing as follows:

"17.The Government after careful consideration and due to changed circumstances, in view of implementation of various welfare schemes in public interest, it is utmost necessary to re-visit the said orders. Accordingly, after considering various aspects, Government direct that the orders issued in the reference eighth read above is hereby cancelled with prospective effect and the Enhanced Pension / Family Pension drawn by Medical Officers / their family members by virtue of the above said Government Order will be restored to the rates admissible prior to the issue of the above Government Order. The enhanced Pension / Family Pension already drawn till the issue of orders will be waived and no recovery will be effected. In respect of type II/III cases, necessary orders shall be issued on the lines of the orders passed in this Government Order."

15. It is thus seen that the Government had once again reiterated the same stand as given in show cause notice and had again stated that the orders issued in G.O.Ms.No.236 stood cancelled with prospective effect and the pension



would be restored to the rates admissible prior to issuance of the said Government Order. However, the pension which had already been drawn would be waived and there would be no recovery. This Government Order had been put to challenge in the writ petitions and the common order passed by the learned Single Judge is the subject matter of the present writ appeals.

16. The learned Single Judge had examined the arguments advanced on behalf of the writ petitioners, who stated that the Government Order had been passed reiterating the reasons shown in the show case notice, which had been specifically set aside by the learned Single Judge. It was also noted that grant of pensionary benefits is a welfare measure and there is a vested right in a public servant to receive pension and the same cannot be recalled or revisited, except in accordance with statutory provisions. It was also noted that the only provision available to the Government is Rule 56 of the Tamil Nadu Pension Rules, and that could be utilised to correct clerical errors in the pension orders. It was also noted that though the Government Order had been issued under Section 56 of the Tamil Nadu Pension Rules, it had gone beyond the power vested in the said Rules. The learned Single Judge also noted the arguments advanced that the Government required funds for other welfare measures and welfare schemes.

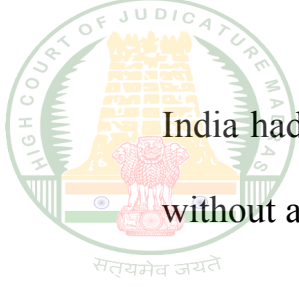


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17. The learned Single Judge also noted arguments of the learned Additional Advocate General that the Government had not only taken into consideration the financial burden, but also the inconsistency in the policy. He also noted that there was an earlier challenge to the entire issue and an order of the Division Bench rejecting such challenge had been upheld by the Hon'ble Supreme Court and the principle laid down was that the DACP Scheme should only be prospective. The argument that there would be no recovery was also noted by the learned Single Judge.

18. After noting the arguments, the learned Single Judge examined the reasons given for the issuance of the Government Order, namely, that there would be an expenditure of about 300 crores per annum to the exchequer and that the implementation of other welfare scheme would be affected. He then examined the judgment of the Hon'ble Supreme Court in ***D.S.Nakkara and other vs. Union of India*** reported in ***1983 (1) SCC 605***, wherein the Hon'ble Supreme Court had held that the pension is compensation for loyal services rendered in the past and it is also a measure of socio economic justice, at a time when physical and mental progress of an individual gets reduced owing to age.

19. The learned Single Judge then referred to the judgment of the Hon'ble Supreme Court in ***2013 (12) SCC 210, State of Jharkhand and others vs. Chitharanjan Das***, wherein the import of Article 300(A) of the Constitution of



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India had been examined and it had been held that pension cannot be deprived without authority of law. It was finally held that the Government should find its resources to benefit its citizens and cannot rob the pensioners, who had a vested right for enhanced pension. In view of those reasons, the learned Single Judge set aside G.O.Ms.No.30, dated 05.02.2025 necessitating the respondents to file the present appeals.

20. Heard Mr.Vijay Narayan, learned Advocate General, assisted by Mr.M.P.Senthil, learned Government Pleader for the appellants, Mr.K.Venkatramani, learned Senior Counsel for Mr.V.M.Jegadeesha Pandian, learned Counsel, Mr.K.Chellapandian, learned Senior Counsel for Mr.A.K.Baskara Pandian, Mr.Isaac Mohanlal, learned Senior Counsel, for Mr.C.Karthik, learned Counsel, Mr.L.Chandrakumar, learned Counsel for Mr.T.Sakthi Kumaran, learned Counsel for the respondents.

21. The learned Advocate General took the Court through the facts of the case and contended that under G.O.Ms.No.354, a new concept called DACP, Dynamic Assured Career Progress Scheme was introduced to alleviate the grievances of medical professionals in Government Service by granting them promotions on completion of 8/15/17/20 years of service. However, new posts were not created for promotion, but rather new nomenclatures had been introduced signifying higher grade of service and a higher scale of pay. This

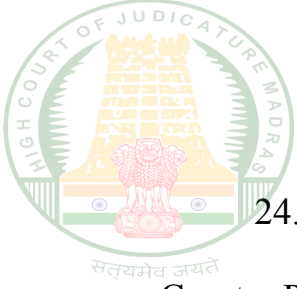


Government Order was issued on 23.10.2009. It was made prospective in nature.

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22. There were representations made that the stipulation that this particular Government Order would be prospective in nature, would bring about two separate class of pensioners namely, those who retired before 23.10.2009, who did not have the benefit of this upgradation in posts or in pay and those who retired after 23.10.2009, who had the benefit. It was therefore, sought that the Government Order should be made retrospective and upgradation and increase in payment should be calculated notionally depending on the period of service put in by the retirees prior to the date of retirement and thereafter, monetary benefits should be extended by increasing the pension accordingly.

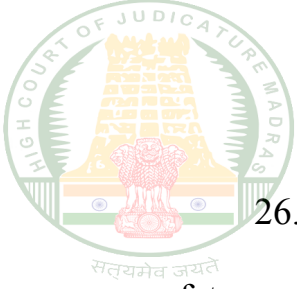
23. The learned Advocate General pointed out that there was an earlier round of litigation when the Government Order was directed to be applied prospectively. A learned Single Judge of this Court had directed examination of the representations seeking that relief. This judgment was taken up further in appeal by the State and a Division Bench in a batch of writ appeals in W.A. (MD) Nos. 922 and 923 of 2013 by common judgment dated 24.03.2015 however upheld the principle that the Government Order stating that DACP scheme would be introduced only prospectively cannot be interfered with and rejected the contention that it would create two classes of pensioners.



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24. This order of Division Bench had been upheld by the Hon'ble Supreme Court. Pointing out these facts, the learned Advocate General stated that the issue now raised had actually been settled by the judgment of the Division Bench. He pointed out that G.O.Ms.No.236, which had been subsequently passed on the basis of the order of the learned Single Judge did not refer to the Division Bench Judgment, but had introduced the scheme retrospectively. This anomaly was corrected by issuing G.O.Ms.No.30, which was impugned before the learned Single Judge. The learned Advocate General therefore contended that the same issue can never be again re-agitated and re-opened and re-examined as constructive *res judicata* prevented such re-visitation of the issue already settled by the earlier Division Bench.

25. With respect to the judgment relied upon by the learned Single Judge in *D.S.Nakara and others vs. Union of India (1983) 1 SCC 305*, the learned Advocate General stated that the judgment considered liberalisation of pension which was an entirely different concept, whereas under G.O.Ms.No.354, a structured career progression scheme was introduced and it was made prospective, only to avoid the financial commitment which the Government would face had it been retrospective since there could be no beginning date fixed and a huge number of retired medical professionals would claim parity and that would cause serious financial commitment on the Government.



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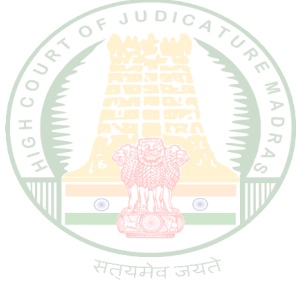
26. The learned Advocate General stated that as the concept, the separate of two classes of pensioners has always been recognised by the Courts and pointed that this cannot be termed as a discrimination of one clause with the other. In this connection, the learned Advocate General placed reliance on the following judgments of the Hon'ble Supreme Court:

- “1. *Krishena Kumar vs. Union of India* [(1990) 4 SCC 207]
2. *Union of India vs. P.N. Menon and others* [(1994) 4 SCC 68]
3. *Hari Ram Gupta (Dead) through LR Kasturi Devi vs. State of Uttarpradesh* [(1998) 6 SCC 328]
4. *T.N. Electricity Board vs. R. Veerasamy and others* [(1999) 3 SCC 414]”

27. In *Krishena Kumar vs. Union of India* [(1990) 4 SCC 207], the Hon'ble Supreme Court has held as follows:

29. The court in *Nakara* [(1983) 1 SCC 305 : 1983 SCC (L&S) 145 : (1983) 2 SCR 165] was not satisfied with the explanation that the legislation had defined the class with clarity and precision and it would not be the function of this Court to enlarge the class. The court held in paragraph 65 of the report : (SCC pp. 344-45, para 65)

“With the expanding horizons of socio-economic justice, the Socialist Republic and Welfare State which we endeavour to set up and largely influenced by the fact that the old men who retired when emoluments were comparatively low and are exposed to vagaries of continuously rising prices, the falling value of the rupee consequent upon inflationary inputs, we are satisfied that by introducing an arbitrary eligibility criterion : ‘being in service and retiring subsequent to the specified date’ for being eligible for the liberalised pension scheme and thereby dividing a homogeneous class, the classification being not based on any discernible rational principle and having been found wholly unrelated to the objects sought to be achieved by grant of liberalised pension and the



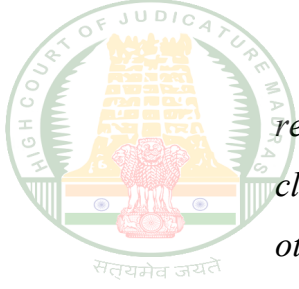
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eligibility criteria devised being thoroughly arbitrary, we are of the view that the eligibility for liberalised pension scheme of 'being in service on the specified date and retiring subsequent to that date' in impugned memoranda, Exs. P-1 and P-2, violates Article 14 and is unconstitutional and is struck down. Both the memoranda shall be enforced and implemented as read down as under : In other words, Ex. P-1, the words : 'that in respect of the government servants who were in service on March 31, 1979 and retiring from service on or after that date'; and in Ex. P-2, the words : 'the new rates of pension are effective from April 1, 1979 and will be applicable to all service officers who became/become non-effective on or after that date' are unconstitutional and are struck down with this specification that the date mentioned therein will be relevant as being one from which the liberalised pension scheme becomes operative to all pensioners governed by 1972 Rules irrespective of the date of retirement. Omitting the unconstitutional part it is declared that all pensioners governed by the 1972 Rules and Army Pension Regulations shall be entitled to pension as computed under the liberalised pension scheme from the specified date, irrespective of the date of retirement. Arrears of pension prior to the specified date as per fresh computation is not admissible."

30. Thus the court treated the pension retirees only as a homogeneous class. The PF retirees were not in mind. The court also clearly observed that while so reading down it was not dealing with any fund and there was no question of the same cake being divided amongst larger number of the pensioners than would have been under the notification with respect to the specified date. All the pensioners governed by the 1972 Rules were treated as a class because payment of pension was a continuing obligation on the part of the State till the death of each of the pensioners and, unlike the case of Contributory Provident Fund, there was no question of a fund in liberalising pension.

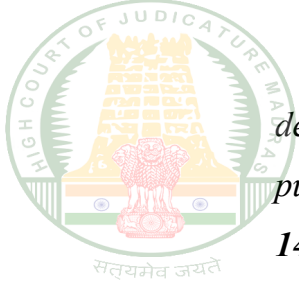
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32. In Nakara [(1983) 1 SCC 305 : 1983 SCC (L&S) 145 : (1983) 2 SCR 165] it was never held that both the pension retirees and the PF



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retirees formed a homogeneous class and that any further classification among them would be violative of Article 14. On the other hand the court clearly observed that it was not dealing with the problem of a "fund". The Railway Contributory Provident Fund is by definition a fund. Besides, the government's obligation towards an employee under CPF Scheme to give the matching contribution begins as soon as his account is opened and ends with his retirement when his rights qua the government in respect of the Provident Fund is finally crystallized and thereafter no statutory obligation continues. Whether there still remained a moral obligation is a different matter. On the other hand under the Pension Scheme the government's obligation does not begin until the employee retires when only it begins and it continues till the death of the employee. Thus, on the retirement of an employee government's legal obligation under the Provident Fund account ends while under the Pension Scheme it begins. The rules governing the Provident Fund and its contribution are entirely different from the rules governing pension. It would not, therefore, be reasonable to argue that what is applicable to the pension retirees must also equally be applicable to PF retirees. This being the legal position the rights of each individual PF retiree finally crystallized on his retirement whereafter no continuing obligation remained while, on the other hand, as regard Pension retirees, the obligation continued till their death. The continuing obligation of the State in respect of pension retirees is adversely affected by fall in rupee value and rising prices which, considering the corpus already received by the PF retirees they would not be so adversely affected ipso facto. It cannot, therefore, be said that it was the ratio decidendi in **Nakara [(1983) 1 SCC 305 : 1983 SCC (L&S) 145 : (1983) 2 SCR 165]** that the State's obligation towards its PF retirees must be the same as that towards the pension retirees. An imaginary definition of obligation to include all the government retirees in a class was not



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decided and could not form the basis for any classification for the purpose of this case. ***Nakara [(1983) 1 SCC 305 : 1983 SCC (L&S) 145 : (1983) 2 SCR 165]*** cannot, therefore, be an authority for this case.

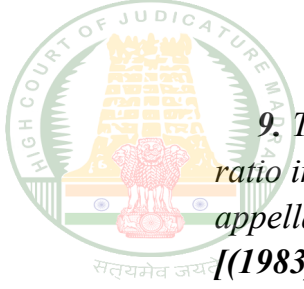
28. In ***Union of India vs. P.N.Menon and others [(1994) 4 SCC 68]***, the Hon'ble Supreme Court had held as follows:

*“8. Whenever the Government or an authority, which can be held to be a State within the meaning of Article 12 of the Constitution, frames a scheme for persons who have superannuated from service, due to many constraints, it is not always possible to extend the same benefits to one and all, irrespective of the dates of superannuation. As such any revised scheme in respect of post-retirement benefits, if implemented with a cut-off date, which can be held to be reasonable and rational in the light of Article 14 of the Constitution, need not be held to be invalid. It shall not amount to “picking out a date from the hat”, as was said by this Court in the case of ***D.R. Nim v. Union of India [AIR 1967 SC 1301 : (1967) 2 SCR 325 : (1968) 1 LLJ 264]*** in connection with fixation of seniority. Whenever a revision takes place, a cut-off date becomes imperative because the benefit has to be allowed within the financial resources available with the Government.*

.....

*15. In the case of ***Action Committee South Eastern Railway Pensioners v. Union of India*** the concept of ‘dearness pay’ was examined was examined, including the two options which had been framed, beyond average price index level at 272, fixing a cut-off date. It was held that merger of a part of the dearness allowance as dearness pay on average price index level at 272, with reference to different pay ranges, was not arbitrary in any manner and the principle enunciated in the ***D.S.Nakara*** case was not applicable.”*

29. In ***Hari Ram Gupta (Dead) through LR Kasturi Devi vs. State of Uttarpradesh [(1998) 6 SCC 328]***, the Hon'ble Supreme Court had held as follows:



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9. The only other question that survives for our consideration is whether the ratio in *Nakara case* [(1983) 1 SCC 305 : 1983 SCC (L&S) 145] will assist the appellant in getting the relief sought for. In *D.S. Nakara v. Union of India* [(1983) 1 SCC 305 : 1983 SCC (L&S) 145] the question for consideration before this Court was whether on the basis of date of retirement the retirees can be classified into different groups and thereupon make provision granting some benefits to one group denying the others. In the aforesaid case, the provisions for pension were applicable to all retirees and, therefore, pensioners form a class as a whole. But when the Liberalised Pension Scheme was introduced, the said Scheme was made applicable to a group of pensioners and not to all and therefore, it was held by this Court that pensioners form a class as a whole and cannot be micro-classified by an arbitrary, unprincipled and unreasonable eligibility criterion. It is to be noted that the aforesaid judgment was considered by this Court in the subsequent Constitution Bench judgment of *Krishena Kumar v. Union of India* [(1990) 4 SCC 207 : 1991 SCC (L&S) 112 : (1990) 14 ATC 846] wherein the decision of *Nakara* [(1983) 1 SCC 305 : 1983 SCC (L&S) 145] was explained and it was held that the pension retirees and provident fund retirees do not form one homogeneous class and on the other hand, the Rules governing the provident fund and its contribution are entirely different from the Rules governing pension and, therefore, it would not be reasonable to argue what is applicable to the pension retirees must also equally be applicable to provident fund retirees. It was further held in the aforesaid case that the rights of each individual retiree finally crystallised on his retirement whereafter no continuing obligation remained in case of those who are governed by Provident Fund Rules whereas in case of pension retirees, the obligation continues till the death of the employee. This Court categorically held that *Nakara* [(1983) 1 SCC 305 : 1983 SCC (L&S) 145] cannot be an authority for the decision in *Krishena Kumar* [(1990) 4 SCC 207 : 1991 SCC (L&S) 112 : (1990) 14 ATC 846] . In *Union of India v. P.N. Menon* [(1994) 4 SCC 68 : 1994 SCC (L&S) 860 : (1994) 27 ATC 515] a similar question came up for consideration and distinguishing *Nakara* [(1983) 1 SCC 305 : 1983 SCC (L&S) 145] and following *Krishena Kumar* [(1990) 4 SCC 207 : 1991 SCC (L&S) 112 : (1990) 14 ATC 846] and other similar cases, the Court held that whenever the Government or an authority, which can be held to be a State within the meaning of Article 12 of the Constitution, frames a scheme for persons who have superannuated from service, due to many constraints, it is not always possible to extend the same benefits to one and all, irrespective of the dates of superannuation. As such, any revised scheme in respect of post-retirement benefits, if implemented with a cut-off date, which can be held to be reasonable



and rational in the light of Article 14 of the Constitution, need not be held to be invalid. Whenever a revision takes place, a cut-off date becomes imperative because the benefit has to be allowed within the financial resources available with the Government. When the army personnel claimed the same pension irrespective of their date of retirement, this Court in the Constitution Bench case of the **Indian Ex-services League v. Union of India [(1991) 2 SCC 104 : 1991 SCC (L&S) 536 : (1991) 16 ATC 488]** considered the grievance of ex-servicemen who had laid the claim on the basis of **Nakara [(1983) 1 SCC 305 : 1983 SCC (L&S) 145]** but ultimately negated the same and followed **Krishena Kumar [(1990) 4 SCC 207 : 1991 SCC (L&S) 112 : (1990) 14 ATC 846]**. In **All India Reserve Bank Retired Officers' Assn. v. Union of India [1992 Supp (1) SCC 664 : 1992 SCC (L&S) 517 : (1992) 19 ATC 865]** when the validity of the introduction of Pension Scheme in lieu of Contributory Provident Fund Scheme was challenged on the ground that bank employees who retired prior to 1-1-1986 have not been given the benefit of the said Scheme, it was held by this Court that there is no arbitrariness in the same.

30. In **T.N.Electricity Board vs. R.Veerasamy and others [(1999) 3 SCC 414]**, the Hon'ble Supreme Court had held as follows:

“11. On 17-11-1998, a three-Judge Bench in **All India PNB Retired Officers' Assn. v. Union of India** while negating an identical claim, held as follows:

“This writ petition is squarely covered by the judgment of this Court in **All India Reserve Bank Retired Officers' Assn. v. Union of India [1992 Supp (1) SCC 664 : 1992 SCC (L&S) 517 : (1992) 19 ATC 865]**. That judgment has rightly noted the distinction that **Nakara case [(1983) 1 SCC 305 : 1983 SCC (L&S) 145]** drew between a continuing scheme and a new scheme.”

12. In view of the fact that this Court, as seen above, has consistently taken a view, we do not want to multiply the authorities for the same proposition except to note down the undisputed facts relating to these cases.

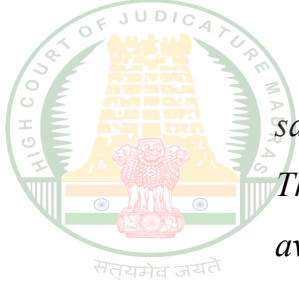


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13. The retired employees (respondents) while in the service of the Government of Tamil Nadu Electricity Department were not governed by the pension scheme but governed by the Contributory Provident Fund Scheme. As per the rules in force on the date of retirement, the employees (respondents) received all retiral benefits. The appellant-Board fixed 1-7-1986 as the date for introducing the pension scheme in view of the Central Government Notification No. S.35012/21/84-SSIV (SS 11) dated 25-6-1986 fixing the date as 1-7-1986, while granting exemption from the application of the Family Scheme, 1971 and the Employees' Deposit Linked Insurance Scheme, 1976. If the date of 1-7-1986 had to be changed, it would lead to many other complications such as reopening and revision of past cases from 1957 to 1986 as well as seeking retrospective exemption from the Government of India. It is also brought to our notice that by giving retrospective effect to the pension scheme as per the impugned judgment of the Division Bench of the High Court, the financial burden that will have to be borne by the appellant-Board would be in the region of about Rs 200 crores which is beyond the capacity of the Board.

14.....

*15. As noticed earlier, the learned Judges even after noticing that the ratio in the judgment of this Court in **Nakara case [(1983) 1 SCC 305 : 1983 SCC (L&S) 145]** cannot be pressed into service, erroneously granted relief on the alleged delay on the part of the appellant-Electricity Board in introducing the pension scheme which certainly cannot be a ground for the Court to give retrospective effect to the pension scheme. Moreover, the appellant-Board had given well-founded reasons for introducing the pension scheme from 1-7-1986 including financial constraints, a valid ground. We are of the view that the retired employees (respondents), who had retired from service before 1-7-1986 and those who were in employment on the*



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said date, cannot be treated alike as they do not belong to one class.

The workmen, who had retired after receiving all the benefits available under the Contributory Provident Fund Scheme, cease to be employees of the appellant-Board w.e.f. the date of their retirement.

They form a separate class.”

31. With respect to the financial implications, which the learned Advocate General claimed was a very important factor, the following judgments were relied:

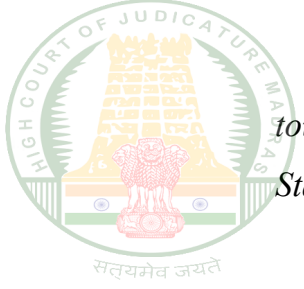
1. *State of Punjab and others vs. Amar Nath Goyal and others [(2005) 5 SCC 754]*

2. *State of Tripura and others vs. Anjan Bhattacharjee and others [(2022) 19 SCC 705.*

32. In ***State of Punjab and others vs. Amar Nath Goyal and others [(2005) 5 SCC 754]***, the Hon’ble Supreme Court had held as follows:

“25. The only question, which is relevant and needs consideration, is whether the decision of the Central and State Governments to restrict the revision of the quantum of gratuity as well as the increased ceiling of gratuity consequent upon merger of a portion of dearness allowance into dearness pay reckonable for the purpose of calculating gratuity, was irrational or arbitrary.

26. It is difficult to accede to the argument on behalf of the employees that a decision of the Central Government/State Governments to limit the benefits only to employees, who retire or die on or after 1-4-1995, after calculating the financial implications thereon, was either irrational or arbitrary. Financial and economic implications are very relevant and germane for any policy decision



touching the administration of the Government, at the Centre or at the State level.

.....

29.D.S. Nakara [(1983) 1 SCC 305 : 1983 SCC (L&S) 145] which is the mainstay of the case of the employees, arose under special circumstances, quite different from the present case. It was a case of revision of pensionary benefits and classification of pensioners into two groups by drawing a cut-off line and granting the revised pensionary benefits to employees retiring on or after the cut-off date. The criterion made applicable was “being in service and retiring subsequent to the specified date”. This Court held that for being eligible for liberalised pension scheme, application of such a criterion is violative of Article 14 of the Constitution, as it was both arbitrary and discriminatory in nature. The reason given by the Court was that the employees who retired prior to a specified date, and those who retired thereafter formed one class of pensioners. The attempt to classify them into separate classes/groups for the purpose of pensionary benefits was not founded on any intelligible differentia, which had a rational nexus with the object sought to be achieved. However, it must be noted that even in cases of pension, subsequent judgments of this Court have considerably watered down the rigid view taken in **D.S. Nakara [(1983) 1 SCC 305 : 1983 SCC (L&S) 145]** as we shall see later in **T.N. Electricity Board v. R. Veerasamy [(1999) 3 SCC 414 : 1999 SCC (L&S) 717]** (“**Veerasamy**”). In any event, this is not a case of a continuing benefit like pension; it is a one-time benefit like gratuity.

.....

32. The importance of considering financial implications, while providing benefits for employees, has been noted by this Court in numerous judgments including the following two cases. In **State of Rajasthan v. Amrit Lal Gandhi [(1997) 2 SCC 342 : 1997 SCC**



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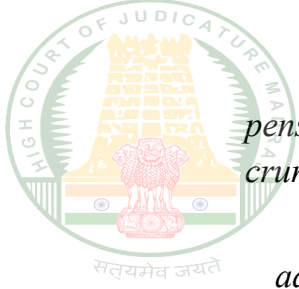
(L&S) 512 : AIR 1997 SC 782] this Court went so as far as to note that:

“Financial impact of making the Regulations retrospective can be the sole consideration while fixing a cut-off date. In our opinion, it cannot be said that this cut-off date was fixed arbitrarily or without any reason. The High Court was clearly in error in allowing the writ petitions and substituting the date of 1-1-1986 for 1-1-1990.” [Ibid., at AIR p. 784, para 17 : SCC p. 348, para 17 (emphasis supplied).]

33. More recently, in ***Veerasamy [(1999) 3 SCC 414 : 1999 SCC (L&S) 717]*** this Court observed that, financial constraints could be a valid ground for introducing a cut-off date while implementing a pension scheme on a revised basis [*Supra* fn 2 SCC at p. 421 (para 15).] . In that case, the pension scheme applied differently to persons who had retired from service before 1-7-1986, and those who were in employment on the said date. It was held that they could not be treated alike as they did not belong to one class and they formed separate classes.”

33. In ***State of Tripura and others vs. Anjan Bhattacharjee and others [(2022) 19 SCC 705]***, the Hon’ble Supreme Court had held as follows:

“18. When specific statistics were provided before the High Court justifying its policy decision and the financial crunch/financial constraint was pleaded, there was no reason for the High Court to doubt the same. As such the findings recorded by the High Court in the impugned judgment and order [Anjana Bhattacharjee v. State of Tripura, 2017 SCC OnLine Tri 271] are contrary to the averments made in affidavit filed on behalf of the State Government. From the affidavit filed before the High Court reproduced hereinabove, we are satisfied that a conscious policy decision was taken by the State Government to grant the benefit of revision of pension notionally from 1-1-2006 or from the date of superannuation till 31-12-2008 and to pay/grant the benefit of revision of



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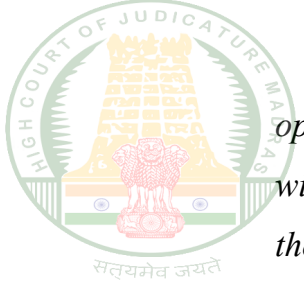
pension actually from 1-1-2009, which was based on their financial crunch/financial constraint.

19. Whether the financial crunch/financial constraint due to additional financial burden can be a valid ground to fix a cut-off date for the purpose of granting the actual benefit of revision of pension/pay has been dealt with and/or considered by this Court in **Amar Nath Goyal [State of Punjab v. Amar Nath Goyal, (2005) 6 SCC 754 : 2005 SCC (L&S) 910]**. In the aforesaid decision, it is observed and held by this Court that financial constraint can be a valid ground for fixation of cut-off date for grant of benefit of increased quantum of death-cum-retirement gratuity. In paras 26, 32 and 33 of the said judgment **[State of Punjab v. Amar Nath Goyal, (2005) 6 SCC 754 : 2005 SCC (L&S) 910]**, it is observed and held as under : (SCC pp. 763 & 765)

“26. It is difficult to accede to the argument on behalf of the employees that a decision of the Central Government/State Governments to limit the benefits only to employees, who retire or die on or after 1-4-1995, after calculating the financial implications thereon, was either irrational or arbitrary. Financial and economic implications are very relevant and germane for any policy decision touching the administration of the Government, at the Centre or at the State level.

32. The importance of considering financial implications, while providing benefits for employees, has been noted by this Court in numerous judgments including the following two cases. In **State of Rajasthan v. Amrit Lal Gandhi [State of Rajasthan v. Amrit Lal Gandhi, (1997) 2 SCC 342 : 1997 SCC (L&S) 512]** this Court went so as far as to note that:

‘17. ... Financial impact of making the Regulations retrospective can be the sole consideration while fixing a cut-off date. In our



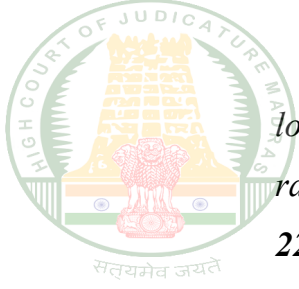
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opinion, it cannot be said that this cut-off date was fixed arbitrarily or without any reason. The High Court was clearly in error in allowing the writ petitions and substituting the date of 1-1-1986 for 1-1-1990.' [Id, SCC p. 348, para 17 (emphasis supplied).]

33. More recently, in **Veerasamy [T.N. SEB v. R. Veerasamy, (1999) 3 SCC 414 : 1999 SCC (L&S) 717]** this Court observed that, financial constraints could be a valid ground for introducing a cut-off date while implementing a pension scheme on a revised basis [Id, SCC p. 421, para 15] . In that case, the pension scheme applied differently to persons who had retired from service before 1-7-1986, and those who were in employment on the said date. It was held that they could not be treated alike as they did not belong to one class and they formed separate classes.”

20. In the aforesaid decision this Court after considering the earlier decisions of this Court in **State of Punjab v. Boota Singh [State of Punjab v. Boota Singh, (2000) 3 SCC 733 : 2000 SCC (L&S) 435]** and **State of Punjab v. J.L. Gupta [State of Punjab v. J.L. Gupta, (2000) 3 SCC 736 : 2000 SCC (L&S) 437]** , it is specifically observed and held that for the grant of additional benefit, which had financial implications, the prescription of a specific future date for conferment of additional benefit, could not be considered arbitrary.

21. In the subsequent decision in **Bihar Pensioners Samaj [State of Bihar v. Bihar Pensioners Samaj, (2006) 5 SCC 65 : 2006 SCC (L&S) 913]** , the decision in **Amar Nath Goyal [State of Punjab v. Amar Nath Goyal, (2005) 6 SCC 754 : 2005 SCC (L&S) 910]** is followed and it is observed and held that financial constraints could be a valid ground for introducing a cut-off date while introducing a pension scheme on revised basis. It is further observed and held by this Court in the aforesaid decision that fixing of a cut-off date for granting of benefits is well within the powers of the Government as



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long as the reasons therefor are not arbitrary and are based on some rational consideration.

22. While applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, we are of the opinion that in the instant case before us, the cut-off date has been fixed as 1-1-2009 on a very valid ground i.e. financial constraint. Therefore, the High Court manifestly erred in striking down Rule 3(3) of the Pension Rules, 2009 being arbitrary and violative of Article 14 of the Constitution.”

34. The learned Advocate General pointed out the ratio in the aforementioned two sets of judgments. The learned Additional General stated that it had been held that determining a cut of date was reasonable and that it had been categorically held by the Hon'ble Supreme Court that it does not bring about discrimination or separate classes of pensioners. With respect to the issue of financial implications, the learned Advocate General argued that this is a very important factor to be considered by the Courts and the interest of the State is not only with respect to the litigants before the Courts, but also with respect to everyone who are outside the Court and on the welfare schemes, which are an integral policy of a welfare State and the implications necessarily have to be considered.

35. The learned Advocate General also pointed out that recovery order has been waived and there was only a re-fixation of the pension and therefore,



argued that there cannot be a complaint that there is deprivation as stated under Article 300 (A) of the Constitution. He therefore stated that the State was well within its power to have a particular cut of date. He therefore, argued that the writ petition should be allowed.

36. Mr. Isaac Mohanlal, learned Senior Counsel for the respondent however, disputed the said contention. He pointed out that the respondents were not claiming parity with anybody particularly with those who retired subsequent to 23.09.2010. According to the learned Senior Counsel, the respondents were claiming their right, which was granted to them by G.O.Ms.No.236 and which had been deprived by the impugned Government Order in G.O.Ms.No.30.

37. He pointed out that the only reason for such deprivation of a right already granted was financial commitment. He pointed out that those who retired in the year 2009, would now have attained the age of 76 years and therefore claimed that they were a diminishing group or class of individuals. He argued that the financial implication should not be of much consideration to the State. He pointed out that nearly more than 50 of the pensioners had died by this date and the rest were senior citizens of much advanced age. He pointed out that the learned Single Judge had set aside the show cause notice with respect to paragraph Nos. 4, 5 and 6 and the impugned Government Order



contained the very same reasons, which had been set aside by the learned Single Judge. It was for that reason that the learned Single Judge while examining the validity of G.O.Ms.No.30, had thought it fit to strike it down.

38. He further argued that pension is a vested right equivalent to property and Article 300 (A) of the Constitution would apply since though there is no recovery of pension already drawn and paid, however, there is a drastic reduction for no fault of the respondents. They had not induced the Government to grant DACP scheme. They had raised a representation about stagnation and it was the Government, which had introduced the Scheme and when the Scheme was introduced, the Government should have been aware that the consequential result was that the benefit under the Scheme would flow till the date of retirement and after the date of retirement under Pension Scheme. Therefore, the Government having consciously extended DACP Scheme should have also budgeted for the pension to be paid on the basis of that particular Scheme.

39. The learned Senior Counsel further pointed out that in a stray case, one Dr.K.S.Gamal Abdul Nasser, had been granted with pension retrospectively. The Government had also passed G.O.Ms.No.64, Health and Family Welfare Department dated 19.02.2018, complying with the directions. It was therefore, contended that the respondents can be compared only with that



particular individual and not with those who retired subsequent to 23.10.2009.

They seek restoration of the benefits already extended and withdrawn. The

learned Senior Counsel placed reliance on the judgment of the Hon'ble Supreme

Court in ***State of Jharkhand and others vs. Jitendra Kumar Srivastava and***

another reported in (2013) 12 SCC 210, wherein it had been held as follows:

“....15.In State of West Bengal Vs. Haresh C. Banerjee and Ors. (2006) 7 SCC 651, this Court recognized that even when, after the repeal of Article 19(1) (f) and Article 31 (1) of the Constitution vide Constitution (Forty-Fourth Amendment) Act, 1978 w.e.f. 20th June, 1979, the right to property was no longer remained a fundamental right, it was still a Constitutional right, as provided in Article 300A of the Constitution. Right to receive pension was treated as right to property. Otherwise, challenge in that case was to the vires of Rule 10(1) of the West Bengal Services (Death-cum-Retirement Benefit) Rules, 1971 which conferred the right upon the Governor to withhold or withdraw a pension or any part thereof under certain circumstances and the said challenge was repelled by this Court.

16.Fact remains that there is an imprimatur to the legal principle that the right to receive pension is recognized as a right in “property”. Article 300 A of the Constitution of India reads as under:

“300-A Persons not to be deprived of property save by authority of law - No person shall be deprived of his property save by authority of law.”

Once we proceed on that premise, the answer to the question posed by us in the beginning of this judgment becomes too obvious. A person cannot be deprived of this pension without the authority of law, which is the Constitutional mandate enshrined in Article 300 A of the Constitution. It follows that attempt of the appellant to take away a part of pension or gratuity or even leave encashment without any statutory provision and under the umbrage of administrative instruction cannot be countenanced.”



40. For the principle that the Government cannot fall back on financial commitments to deny pension to the retired employees, the the learned Senior Counsel has also relied on the judgment in ***Punjab State Cooperative Agricultural Development Bank Ltd., vs. Registrar Cooperative Societies and others*** reported in (2022) 4 SCC 363, in which it has been stated as follows:

“57. In our view, nonavailability of financial resources would not be a defence available to the appellant Bank in taking away the vested rights accrued to the employees that too when it is for their socioeconomic security. It is an assurance that in their old age, their periodical payment towards pension shall remain assured. The pension which is being paid to them is not a bounty and it is for the appellant to divert the resources from where the funds can be made available to fulfil the rights of the employees in protecting the vested rights accrued in their favour.

58. So far as the submission made by the serving employees is concerned, they have no locus to question. At the same time, their apprehension as being projected to this Court is completely misplaced for the reason that employer/employees contribution is being provided under the employees pension scheme(EPS) of the Act 1952 which is made applicable to the serving employees and they are entitled to get pension in terms of the provisions of the Act 1952. So far as their complaint regarding payment of contribution is concerned, it is in no manner going to be adjusted for payment of pension to retirees/respondents, who are entitled to get their pension in terms of the pension scheme of which they are members and it is for the appellant Bank to reserve the resources and make payment to the retired employees seeking pension to the scheme in vogue when they became members and took benefits pursuant thereto.”

41. Mr. K. Venkatramani, learned Senior Counsel also argued on the same lines and further argued that the Government had modified G.O.Ms.No.354 while passing G.O.Ms.No.245, which Government Order was challenged by the



Dr.K.S.Gamal Abdul Nasser and the Division Bench had negated the appeal of the Government. Therefore, the Government also passed a Government Order affirming the pension to be granted to him. The learned Senior Counsel contended that the respondents cannot be differentiated and denied their lawful benefits.

42.Mr.K.Chellanpandian, learned Senior Counsel also argued on the same lines. He further pointed out that there cannot be an apprehension that flood gates would be opened, particularly when the class of pensioners are reducing in number owing to their age and it would be extremely inappropriate on the part of the Government to deny them their lawful right to receive pension for the services rendered by them during their period of service.

43.Mr.L.Chandrakumar, learned Counsel also adopted the said arguments and further pointed out G.O.Ms.236 and it is import and stated that G.O.Ms.No.30, which was impugned in the writ petitions does not have any statutory value and there has been no corresponding amendment to the Pension Rules. He argued that terefore, in the absence of amendment brought about to determine the reduction in pension, deprivation cannot be effected. He also urged that the appeals should be dismissed.

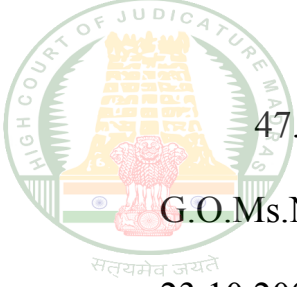


44. We have carefully considered the arguments advanced and perused the materials placed on record.

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45. The respondents in a batch of writ petitions aggrieved by the common order of the learned Single Judge dated 16.12.2025, are the appellants herein. The writ petitions had been filed seeking to set aside G.O.Ms.No.30, Finance (PC-2) Department dated 05.02.2025 and the consequential orders passed. Even before examining the said Government Order, it would only be appropriate to narrate the background facts.

46. The respondents are all medical professionals, who had joined the Government services either under the Director of Medical Rural Health Services / Director of Public Health and Preventive Medicine, wherein there are posts of Assistant Surgeon, Senior Assistant Surgeon, Civil Surgeon and Senior Civil Surgeon or under the Director of Medical Education, wherein the posts were Assistant Professors and Associate Professors/Professors. A representation had been given by the Tamil Nadu Doctors Association seeking the Government to examine the lack of promotional opportunities and stagnation of Medical Professionals in both the streams at a particular level for considerable period of years.



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47. In order to alleviate this grievance, the Government passed G.O.Ms.No.354, Health and Family Welfare (B2) Department, dated 23.10.2009, wherein they created an additional rank called Chief Civil Surgeon, under the Director of Medical and Rural Health Services/Director of Public Health and Preventive Medicine also an additional rank of Senior Assistant Professor, equivalent to Civil Surgeon and splitted the combined cadre of Associate Professors/Professors into two, namely Associate Professors and Professors corresponding to Senior Civil Surgeons and Chief Civil Surgeons. This creation of a new rank was only a mirage as it was not a promotional post, but only an upgradation of the existing post. However, there was an increase in the pay band.

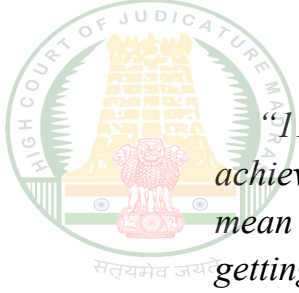
48. Viewed independently, this was laudable as it addressed the grievance of stagnation without promotional avenues at regular intervals in one particular level. Thereafter, a further clarification was issued in G.O.Ms.No.245, Health and Family Welfare (A2) Department, on 30.10.2013, wherein the Government introduced the period within which the medical professionals under Government Service could function in a particular level and thereafter, be granted upgradation of post with an increased pay band. They determined this period as completion of 8, 15, 17 and finally 20 years of service.



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49. The issue which then came up was whether this particular Government Order in G.O.Ms.No.354 could be applied prospectively or could be applied retrospectively. It was applied prospectively. This came to be questioned. The Government issued letter No.27434/Pay Cell /2011-1 dated 22.07.2011, whereby they stated that it could be taken into effect prospectively. Two writ petitions came to be filed challenging the said letter. The second writ petition in W.P.(MD)No.9215 of 2011 was by one Dr.T.Rajagopal, which was filed in his individual capacity and the earlier writ petition in W.P.No.5168 of 2011, was filed in his capacity as President of the Tamil Nadu Government Retired Medical Officers Association, Madurai District.

50. A learned Single Judge of this Court by a common order dated 30.04.2013 had issued directions that G.O.Ms.No.354 would apply only prospectively and directed grant of pension even to those who had retired prior to 23.10.2009 on par with other similarly placed Professors and Medical Officers, who had retired subsequent to 23.10.2009. This common order of the learned Single Judge in the two writ petitions was challenged by the Government in W.A.(MD)Nos.922 and 923 of 2019. A common judgment was pronounced on 24.03.2015 by a Division Bench where it had been finally held as follows:



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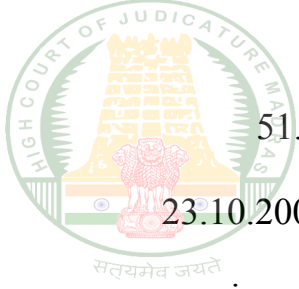
“114. Therefore, it is explicit that the object which is sought to be achieved by way of issuance of G.O.Ms.No.354, dated 23.10.2009, does not mean to create a new class, but to ensure that the Government doctors are getting promotional opportunities, who have completed 8/15/20 years of Government service by way of granting Dynamic Assured Career Progression (DACP).

115. As it is discussed in the foregoing paragraphs, Article 14 of the Constitution of India, does not forbid reasonable classification. In so far as this case is concerned, the classification between the Government doctors, who had retired prior and after 23.10.2009 is a permissible and reasonable classification and therefore, it could be construed as an intelligible differentia. This classification is having a rational nexus to the object sought to be achieved by the issuance of G.O.Ms.No.354, dated 23.10.2009.

116. Having regard to the related facts and circumstances, we are of the considered view that the cut off date viz., 23.10.2009 is not arbitrary and therefore, it does not create any unreasonable disparity in the payment of pension as the doctors, who had retired prior to 23.10.2009 were not similarly placed to the Government Doctors, who have retired after 23.10.2009. Hence, the G.O.Ms.No.354, Health and Family Welfare (B2) Department, dated 23.10.2009 cannot be given retrospective effect, as this G.O. is having only prospective effect, which is clearly stipulated in the G.O., which cannot be deviated or flexed in accordance with the whims and fancies of the petitioner and the members of his Association.

117. Keeping in view of the above facts, we are of the considered view that the impugned order passed by the learned single Judge of this court is liable to be set aside and the writ petitions viz., W.P.(MD)No.5168 and W.P.(MD)No.9215 of 2011 filed by the petitioners and his association are liable to be dismissed.

118. Accordingly, both the writ appeals are allowed. The common order, dated 30.04.2013 is set aside and the writ petitions viz., W.P.(MD)Nos.5168 and W.P.(MD)No.9215 of 2011 are dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.”



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51. The Division Bench had very categorically held that the cut of date of 23.10.2009 does not create any unreasonable disparity in the payment of pension as the said Government Order had been issued only to ensure that promotional opportunities are granted to the Government Doctors by way of granting Dynamic Assured Career Progression. It was also held that the said Government Order can have only prospective effect and it cannot be deviated in accordance with the whims and fancies of the writ petitioner or the members of the Association. It is thus seen that a conclusive pronouncement had been made about the two classes of pensioners, one prior to 23.10.2009 and the other subsequent to 23.10.2009.

52. However, there was another twist namely, the case of one individual Doctor, namely Dr.K.S.Gamal Abdul Nasser, who had filed W.P.No.33656 of 2016 seeking Certiorarified Mandamus relating to a letter No.2137/A1-2012-8 dated 11.09.2015 and to quash the same and refix the pay notionally in the light of G.O.Ms.No.234 dated 01.06.2009 and G.O.Ms.No.245 dated 30.10.2013. A learned Single Judge had allowed the writ petition. The State had filed appeal in W.A.(MD)No.1341 of 2017.

53. G.O.Ms.No.234, Finance (Pay Cell) Department dated 01.06.2009 was prior to G.O.Ms.No.354, Health and Family Welfare (B2) dated 23.10.2009. In G.O.Ms.No.234, the Government had only revised the pay

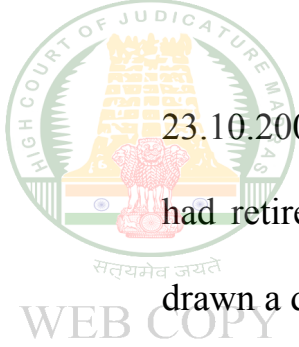


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structure with grade pay. This had been introduced across all Departments under the Government. By G.O.Ms.No.245, Health and Family Welfare (A2) Department dated 30.10.2013, the Government reviewed the implementation of G.O.Ms.No.354 dated 23.10.2009 and had introduced, the number of years for which Medical Officers could be in a particular level and introduced the time bound promotion on completion of 8, 15, 17 and 20 years of service. They had not interfered with the fact that in G.O.Ms.No.354, it had been provided that the said promotion would be prospective in nature. The writ appeal filed was allowed and the Government complied with it the directions issued.

54. The issue in the said writ appeal was not with respect to the promotion as envisaged under G.O.Ms.No.354, but to an earlier Government Order in G.O.Ms.No.234 dated 01.06.2009. Therefore, the issues relating to that writ appeal was a stand alone issue.

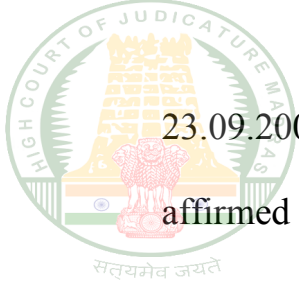
55. The Government then passed G.O.Ms.No.236, Finance (Pay Cell) Department on 12.07.2018. However, when they had passed that particular Government Order, they had not examined the import of the judgment of the Division Bench in W.A.(MD)Nos.922 and 923 of 2013, dated 24.03.2015. This judgment was however referred in G.O.Ms.No.30, which has been impugned in the writ petition. The order with respect to Dr.K.S.Gamal Abdul Nasser was also referred in G.O.Ms.No.30 and it had been stated that he was in service on



23.10.2009 and therefore, he cannot be considered to be equal with those who had retired prior to 23.10.2009. Therefore, the Government had consciously drawn a distinction with the case of Dr.K.S.Gamal Abdul Nasser.

56. In G.O.Ms.No.236, which had been issued on the representation given by Dr.T.Rajagopal, it had been stated that those who retired prior to 2009 were senior to Dr.K.S.Gamal Abdul Nasser and therefore, they must be granted parity of pension. They did not seek pay revision as granted to Dr.K.S.Gamal Abdul Nasser as clarified G.O.Ms.No.64, the implementing Government Order in the writ appeal relating to Dr.K.S.Gamal Abdul Nasser. Therefore, in G.O.Ms.No.236, there was a comparison of those who had retired prior to 23.10.2009 with that of an individual, who was in service on 23.10.2009, on the basis that those who retired earlier were senior to him. It is thus seen that G.O.Ms.No.236 was the result of the confusion created by the representation given by Dr.T.Rajagopal in his individual capacity, having failed in his earlier efforts as seen from judgment in W.A.(MD)Nos.922 and 923 of 2013.

57. The argument of the learned Advocate General that the principles laid in the judgment in W.A.(MD)Nos.922 and 923 of 2013, will necessarily have to be applied while adjudicating the issues in these writ appeals cannot be disputed. The Division Bench therein had very categorically upheld that there can be two separate classes, one prior to 23.09.2026 and the other subsequent to



23.09.2009. The judgments relied on by him again upholding that principle are affirmed by us.

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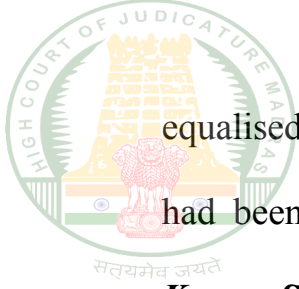
58. However, it must also be noted that Article 300-A of the Constitution is very categorical when it states that no person shall be deprived of his property ‘*save by authority of law*’. It was introduced in Chapter IV relating to Right to Property, which reads as follows:

*“300-A Persons not to be deprived of property save by authority of law.-No person shall be deprived of his property **save by authority of law.**”*

59. It must be pointed out that in the Constitution in only two Articles, the words *except by authority of law*, are used. The first one is Article 265 of the Constitution, which relates to imposition of taxes and it had been very categorically held that no tax can be levied or collected except by authority of law. Article 265 of the Constitution is as follows:

“265.Taxes not to be imposed save by authority of law- No tax shall be levied or collected except by authority of law.”

60.Thus, though the Government has a right to bring about different classes giving appropriate reasons, still such division should be done only under *authority of law*. The right to be paid pension by a retired employee has been



equalised with right to property by the Hon'ble Supreme Court. This principles had been held categorically in *State of Jharkhand and others vs. Jitendra Kumar Srivastava and Anr* reported in *2013 (12) SCC 210*, wherein it had been very specifically stated as follows:

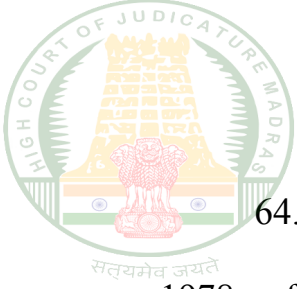
*“It follows that attempt of the appellant to take away a part of pension or gratuity or even leave encashment **without any statutory provision** and under the umbrage of administrative instruction cannot be countenanced.*

...Emphasis supplied.”

61. The pension of a Tamil Nadu Public Servant is governed by the Tamil Nadu Pension Rules, 1978, which had come into force on 01.01.1979.

62. These Rules have the authority of law. They have a binding nature and have to be mandatorily followed. There is no other option. There cannot be a different set of Rules distinct from Tamil Nadu Pension Rules, 1978, applicable to any Government Servant appointed to *“services and posts in connection with the affairs of the State, which are borne on pensionable establishments, whether temporary or permanent”*.

63. There is no dispute that the respondents in this case are Government Servants who had been appointed to a particular service in connection with the affairs of the State and there is no dispute that their services are pensionable establishments and that they had been in permanent employment.



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64. It had been provided under Rule 56 of the Tamil Nadu Pension Rules, 1978 as follows:

“Rule - 56. Revision of pension after sanction. (1) Subject to the provisions of rules 8 and 9, pension once sanctioned after final assessment shall not be revised to the disadvantage of the Government servant, unless such revision becomes necessary on account of detection of clerical error subsequently and where it is found to be in excess of the amount finally assessed by the Audit Officer:

Provided that no revision of pension to the disadvantage of the pensioner shall be ordered by the pension sanctioning authority without the sanction of the Government if the clerical error is detected after a period of two years from the date of sanction of pension.”

65. Rules 8 and 9 of the Tamil Nadu Pension Rules relate to grant of pension subject to future good conduct, which does not apply to the respondents herein and the right of competent authority to withhold or withdraw pension, owing to departmental or judicial proceedings or misappropriation. Judicial proceedings would mean criminal proceedings or civil proceedings. These provisions do not apply to the respondents in this case.

66. It had been further held in ***State of Jharkhand and Ors. vs. Jitendra Kumar Srivastava & Anr***, referred supra, in para No.17 as follows:

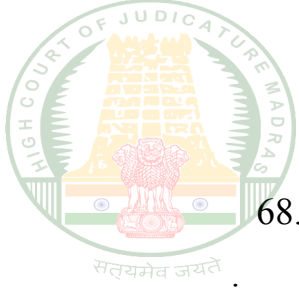
“It hardly needs to be emphasized that the executive instructions are not having statutory character and, therefore, cannot be termed as “law” within the meaning of aforesaid Article 300A. On the basis of such a circular, which is not having force of law, the appellant cannot withhold even a part of pension or



gratuity. As we noticed above, so far as statutory rules are concerned, there is no provision for withholding pension or gratuity in the given situation. Had there been any such provision in these rules, the position would have been different.”

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67. The facts in that case were that the respondent was working in the department of Animal Husbandry and Fisheries. In 1996, two cases were registered against him under the provisions of the Indian Penal Code, 1860 and Prevention of Corruption Act, 1988 alleging financial irregularities. After the Bihar Reorganization Act, 2000, the State of Jharkhand was created. The respondent became a public servant of the appellant State Government. On 30.01.2002, disciplinary proceedings were initiated. He retired on 31.08.2002, when disciplinary proceedings was still pending. He was granted 90% of the pension and 10% of the pension amount was withheld. He was not paid leave encashment and gratuity. Raising an objection for withholding 10% pension, he filed a writ petition. The High Court directed examination of his claim. The State Government rejected his claim. Another writ petition was filed. That writ petition was also dismissed. However, the Division Bench allowed the writ appeal holding that the Government had no power to withhold the pension in the absence of specific rules under the Bihar Pension Rules, 1950. It was under those circumstances, the State of Jharkhand had filed an appeal before the Hon'ble Supreme Court.

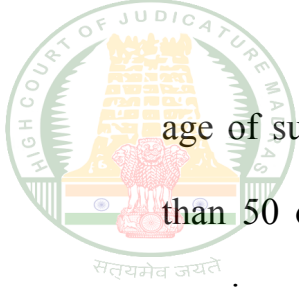


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68. We hold that the instant case, if the respondents sought to deprive pension already calculated and sanctioned, there must be an amendment to the Rules. It is stated that the Government Order in G.O.Ms.No.30 had been issued only under Rule 56 of the Tamil Nadu Pension Rules, 1978. But, there should be a corresponding amendment to the Rules providing for deprivation of pension even after the pension had been sanctioned. Though it could be stated that the Government is waiving recovery, still reduction of pension is deprivation and there can never be such deprivation except under the authority of law.

69. There is no indication that Article 162 of the Constitution had been applied while passing G.O.Ms.No.30, impugned in the writ petition. The Supreme Court had stated in *State of Jharkand* referred *supra*, that there cannot be any deprivation without any authority of law, even in the case of public servants against whom departmental proceedings were initiated and criminal cases have been registered for offences under the provisions of Indian Penal Code, 1860 and under the Prevention of Corruption Act, 1988.

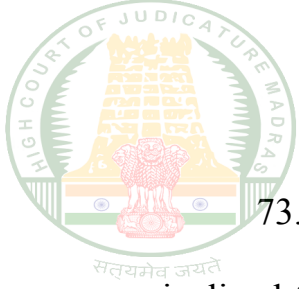
70. The respondents herein stand on a far, far higher footing. They had discharged their noble duty while in service. There is no complaint about their lack of dedication during their period of service. They had retired in October, 2009. As on date, the youngest of them would be 76 years of age, taking the



age of superannuation as 60 years. They are thus a diminishing class. More than 50 of them have died. The family pension would only be 50% of the pension payable to a retired public servant. The financial commitment therefore decreases on death.

71. The financial commitment for the existing pensioners is certainly not Rs.300 /- crores as stated in the Government Order in G.O.Ms.No.30, which was impugned before the learned Single Judge. That is an imaginary figure given by the appellants herein. There cannot be a reduction of pension to just satiate the pleasure of Executive Officers deciding these issues. The plight of the retired pensioners should be seen. It is not a question of mere reduction of pension, but the hurt caused owing to degradation of the services rendered by them. Their services rendered to hundreds and thousands of patients should be recognized and should not be just washed away by citing other financial commitment by the Government.

72. The Government, as a welfare State has a duty to recognise the loyal services rendered by a public servant. He cannot be left high and dry. His family cannot be deserted. He had not deserted his post. He had committed himself during service putting his life on the line while treating patients with infectious diseases. He had saved the lives of the citizens of this country, including probably the family members of the Executives, who had advised the Government to pass G.O.Ms.No.30, dated 05.02.2025.



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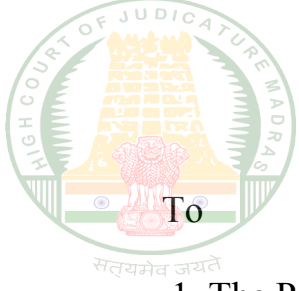
73. We hold that this deprivation is a very unkind cut. We are not inclined to accept the argument that it is reasonable. Deprivation of sanctioned pension could be resorted to only in the manner known to law. When the law does not authorise such deprivation, the Government can never take away a part of the pension under the umbrella of a Government Order, which has no statutory value. Though it is claimed to have been passed under Rule 56 of the Tamil Nadu Pension Rules, 1978, there are no corresponding amendments to the Rules. There is no claim that Article 162 of the Constitution had been applied by the Government.

74. We have no hesitation in striking down G.O.Ms.No.30 Finance (PC-2) Department, dated 05.02.2025 and in confirming the common order of the learned Single Judge.

75. Accordingly, these Writ Appeals are dismissed. C.M.P.(MD)No.5231 of 2026 also stands dismissed. Consequently, connected miscellaneous petitions are closed. No order as to costs.

(C.V.K.,J.) (R.S.V.,J.)
30-09-2026

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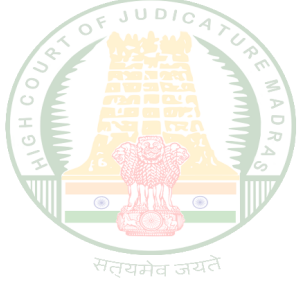


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**C.V.KARTHIKEYAN J.
AND
R.SAKTHIVEL J.**

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Pre-Delivery Judgment made in
WA(MD) Nos.440 to 444 of 2026

30-09-2026