

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.06.2015

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THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

W.P.No.13065 OF 2015

V.Padmavathi

[PETITIONER]

Vs

- 1 The Government of Tamilnadu
rep. by Principal Secretary to Government
School Education Department
Fort St.George, Chennai-600 009.
- 2 The Director of School Education
College Road, Chennai-600 006.
- 3 The Joint Director of School Education (Personnel)
College Road, Chennai-600 006.
- 4 The Principal Accountant General (A &E)
NO.361 Anna Salai, Chennai-600 018
- 5 The Principal
Government Model Higher Secondary School
Triplicane, Chennai-600 005.

[RESPONDENTS]

Writ petition is filed under Article 226 of the Constitution of India praying for a writ of Mandamus to direct the respondents 1 to 3 and 5 to carry out relevant entries in the petitioners service register and to send the pension proposal to the 4th respondent by treating the period from 11.4.2006 when the petitioner is removed from service and 4.4.2008 when the petitioner was reinstated in service and the further period from 27.6.2012 to 30.6.2012 as a period spent on duty and count the same as qualifying service and to grant pension and arrears of pension along with terminal benefits with interest @ 18% p.a.

For Petitioner : Mr.R.Saseetharan

For Respondent : Mr.S.Gunasekaran - R1 to R3

Mr.V.Vijay Shankar - R4

O R D E R

With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal at the admission stage itself.

2.The petitioner was initially appointed as Typist at Project Office, State Education Programme, Nagalapuram at Kundikulam, Tirunelveli District and she was promoted as Assistant on 29.07.1994. While so, the petitioner was removed from service by the third respondent by an order dated 11.04.2006. Therefore, the petitioner has approached this Court questioning the order of removal in W.P.No. 13207 of 2006. On 05.05.2006, this Court while admitting the Writ Petition, granted interim stay of the order removing the petitioner from service. Based on the interim stay order granted by this Court, the petitioner was reinstated into service on 04.01.2008. On 22.02.2008, the interim stay order was made absolute and on 19.07.2011, this Court allowed the Writ Petition and set aside the order of removal, with liberty to the respondents to proceed in accordance with law.

3.In those circumstances, a charge memo dated 24.10.2011 was issued under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Ultimately, the said proceedings resulted in passing an order dated 27.6.2012, removing the petitioner from service. Aggrieved over the same, the petitioner preferred an appeal before the second respondent and the second respondent passed an order dated 01.10.2013, partly allowing the appeal by modifying the punishment of removal from service into one under compulsory retirement. Thereafter, the petitioner was paid provisional pension.

4.The learned counsel appearing for the fourth respondent submitted that since the period of service from 18.04.2006 to 04.04.2008 was not regularised, though salary and increments were paid for those period, the fourth respondent was unable to authorise the regular pension which the petitioner is entitled to receive and has produced the proceedings dated 16.06.2015, granting admissible Pension and DCRG benefits based on the materials furnished by the respondents.

5.It is not seriously disputed that the petitioner was paid salary and other benefits for the period from 18.04.2006 to 04.04.2008, pursuant to the order passed by this Court, as referred above. Therefore, the petitioner's service shall be regularised for the aforesaid period from 18.04.2006 to 04.04.2008 and a formal order regularising the service with appropriate proposal from the respondents 1 & 2 to the fourth respondent, would redress the grievance of the petitioner and the petitioner would be able to get appropriate pension, which she is entitled to.

6.Under such circumstances, the respondents 1 & 2 are directed to regularise the service of the petitioner for the period from

18.04.2006 to 04.04.2008, as period spent on duty, within a period of twelve weeks from the date of receipt of a copy of this order, since salary and other increments were paid for those period and to send appropriate proposal for revision of Pension and DCRG, within a period of four weeks thereafter to the fourth respondent and the fourth respondent in turn is directed to authorise the same, within a period of two weeks thereafter.

The Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rpa

To

- 1 The Government of Tamilnadu
rep. by Principal Secretary to Government
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- 4 The Principal Accountant General (A &E)
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- 5 The Principal
Government Model Higher Secondary School
Triplicane, Chennai-600 005.

- 1 CC to Mr.R.Saseetharan, Advocate SR.No. 32283
- 1 CC to Mr.V.Vijay Shankar, Advocate SR.No. 32506
- 1 CC to the Government Pleader, SR.No. 32091

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CTK (CO)
PSI (06.07.2015)