

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2015

CORAM

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.15771 of 2015

S.Rajeswari

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Petitioner

Vs.

1.Government of Tamil Nadu

Represented by Secretary to Government
School Education Department
Secretariat, Chennai - 600 009.

2.The Director of Elementary Education Department
Chennai - 600 006.

3.The District Elementary Education Department
Namakkal.

4.The Accountant - General (A & E)
Tamil Nadu, Chennai - 600 018.

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Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first Respondent herein to issue orders regularising the period of service of Thiru.K.Subramanian (Late), husband of the petitioner (1) from 16.09.1989 to 09.09.1990 as eligible leave (2) from 10.09.1990 to 11.06.1998 as period of “ Compulsory wait and duty” in the pursuance of order dated 08.04.1996 in O.A.No.1797/1994 of the Tamil Nadu Administrative Tribunal and to revise his pensionary benefits by taking into account the service from 16.09.1989 to 11.06.1998 as ' qualifying service' for pension and disburse all consequential monetary benefits to the petitioner with 12% compound interest per annum on all such payments and grant to the petitioner the retirement and pensionary benefits payable to her husband and the Family Pension to the petitioner, within a time frame.

For Petitioner : Mr. M.Ravi
For Respondents : Mr.S.Gunasekaran
Government Advocate

ORDER

The husband of the petitioner was initially appointed as Higher Grade Teacher in the year 1967 and he was promoted as Secondary Grade Teacher in the year 1972 and he has not attended the school and alleged to have availed leave from 03.10.1985 to 15.09.1989. Thereafter, according to him, he sought permission to rejoin duty, but no order was passed till 08.02.1993. He was permitted to join duty only on 09.02.1993. Accordingly, he joined on 24.02.1993. While so, he was dismissed from service on 22.03.1994 based on certain allegations after holding an enquiry.

2. The husband of the petitioner filed Original Application in O.A.No.1797 of 1994 before the Tamil Nadu Administrative Tribunal seeking to quash the dismissal order and to reinstate him in service with all benefits. The Tamil Nadu Administrative Tribunal allowed the Original Application in O.A.No.1797 of 1994 on 08.04.1996 with direction to reinstate the husband of the petitioner in service and also to regularise the period from 10.09.1990, the date on which he submitted representation seeking permission to join duty, till reinstatement, as compulsory wait. Further, It is stated that the period from 16.09.1989 to

09.09.1990 shall be treated as leave to which he was eligible and he shall not be eligible for any pay and allowances for the period he was out of employment from 22.03.1994 till the date of reinstatement.

3. Pursuant to the aforesaid order of the Tribunal, the husband of the petitioner was reinstated in service on 12.06.1998. Later, he was promoted as Headmaster on 26.05.2000 and retired from service on 31.08.2004 and expired on 21.11.2007.

4. Though the petitioner is permitted to retire from service on 31.08.2004, till his death, no terminal benefits were given. According to the petitioner, the reason for non-payment of retirement benefits is that the respondent failed to regularise the period of service as directed by the Tribunal in O.A.No.1797 of 1994 from 10.09.1990 till the date of reinstatement and also thereafter.

5. Since the order of the Tribunal attained finality, the period should have been regularised and the terminal benefits should have been paid. Unfortunately, Government servant died without getting the terminal benefits and other benefits.

6. The petitioner has come before this Court seeking a direction to pay arrears of pension and other benefits payable to her husband and family pension from the date of his death and other benefits.

7. Heard both sides.

8. The first respondent by the letter dated 26.12.2013 called for certain documents from the Director of Elementary Education to pass an order giving terminal benefits. Pursuant to the order of the first respondent, the documents were submitted on 04.03.2014, but no order was passed by the Government. Therefore the petitioner herein has filed the present Writ petition before this Court.

9. When the matter came up for admission, this Court passed the following order on 04.06.2015 which is extracted hereunder;

“ It is seen from the facts as disclosed in the affidavit that though the Government passed an order in Letter No.27045/EE1(2)/2013-1, dated 26.12.2013 to the 2nd respondent to send the relevant records as required in the said order dated 26.12.2013, it is the grievance of the petitioner that the 2nd respondent did

not send any records as sought for by the Government.

2. Hence, the 2nd respondent is directed to send the report along with the required document to the Government as directed by the Government in his Letter No.27045/EE1(2)/2013-1, dated 26.12.2013 within a period of two weeks and report the same to this Court on 22.06.2015.

Post on 22.06.2015 at the end of the motion list.”

10. Now, it is stated that the entire documents were submitted by the Director of Elementary Education to the Government with a report and the same is recorded.

11. Under these circumstances, a direction is issued to the first respondent to pass appropriate order to regularise the service of the husband of the petitioner in terms of the order dated 08.04.1996 passed in O.A.No.1797 of 1994 by the Tamil Nadu Administrative Tribunal within a period of four weeks, and also pass an order granting terminal benefits, such as arrears of pension,

DCRG, leave encashment benefits payable to the husband of the petitioner within a period of twelve weeks from the date of receipt of copy of this order and to pay family pension from the date of death of the husband of the petitioner with arrears and continue to pay family pension monthly till the life time of the petitioner. The arrears shall be paid within a period of twelve weeks from the date of receipt of a copy of this order.

12. With the above said direction, the writ petition is disposed of. No costs.

02.07.2015

Index : Yes/No
Internet : Yes/No
sms

To

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D.HARIPARANTHAMAN, J.

SMS

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