

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.29032 of 2015

Mrs.V.Meenakshi

... Petitioner

Vs.

- 1 The Government of Tamilnadu
rep. by School Education Department Fort St.
George Chennai-4
- 2 The Principal Accountant
General (A & E) Tamilnadu No.361 Anna
Salai Chennai-18
- 3 The Director of School
Education College Road Chennai-4
- 4 The District Educational
Officer Chennai South Chennai-8
- 5 The Secretary
NKT National Higher Secondary School No.41
Dr.Besant Road Triplicane Chennai-5

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the entire records relating to the impugned proceedings of the 2nd respondent in Pen 23/II/Pl6228/14-15 dated 24.3.2015 and the 4th respondent in Rc. No.1112/A2/2015 dated 10.4.2015 and quash the same as illegal in operative in law and not binding upon petitioner case is concerned with.

For Petitioner
For Respondents

: Mr.R.Venkatesan
: Mr.S.Gunasekaran for R1, R3 and R4
Government Advocate
Mr.V.Vijayashankar for R2

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner would state that she entered the service as a Teacher under the Matriculation School, Singaram Pillay Matriculation Higher Secondary School, Villiwakkam and she worked there for 16 years between 20.06.1983 and 22.03.2000 and thereafter, joined N.K.T.National Girls' Higher Secondary School, Triplicane, an aided school on 29.03.2000 and retired from service on reaching superannuation on 31.03.2013.

3.It is further stated by the petitioner that while calculating her pension, the Authorities have taken the Additional qualifying service as per clause 4(a) of the Rule 62 of Tamil Nadu Pension Rules after verification of the Service Certificate issued to her by the Matriculation School duly countersigned by the Inspector of Matriculation Schools and after verification of the attendance records and the office of the second respondent had also verified the same and revised pension due to special grade was also granted on 20.01.2015 with effect from 01.04.2013 and the petitioner was drawing her monthly pension.

4.However, to the shock and surprise of the petitioner, she received a proceedings of the second respondent dated 24.03.2015 requesting her to approach the fourth respondent with regard to the revision of pensionary benefits and the fourth respondent vide proceedings dated 10.04.2015 has informed the fifth respondent that the services rendered in the Matriculation School which is an un-aided non-pensionable service, as per G.O.Ms.No.314 (D2) S.E.Department, dated 12.11.1999 was also included along with the regular service rendered by the petitioner under the fifth respondent school and thereby the petitioner is drawing excess pay. The petitioner in this regard, has also submitted a representation to the fifth respondent on 21.04.2015 as well as another set of representations dated 13.05.2015 as well as 01.07.2015 to the second respondent stating among other things that the reason with regard to the qualifying service, is per se erroneous and she is entitled to draw the pension without any reduction and since no orders have been passed, the petitioner came forward to file this writ petition challenging the impugned proceedings of the second respondent.

5.The learned counsel appearing for the petitioner would submit that the second respondent has already reached conclusion to reduce the pension and would submit that in similar facts and circumstances, this Court vide order dated 01.04.2013 made in W.P.No.7627 of 2006 has counted the service rendered by the petitioner therein as Physical Education Teacher in an recognized Matriculation school for the purpose of fixation of pensionary benefits and since the petitioner has rendered service of 16 years and above, the said period is also to be taken into consideration for calculating pensionary benefits and hence, prays for appropriate orders.

6.Heard the submissions of Mr.R.Venkatesan, learned counsel appearing for the petitioner, Mr.S.Gunasekaran, learned Government Advocate who accepts notice on behalf of the respondents 1, 3 and 4 and Mr.V.Vijayashankar, learned counsel who accepts notice on behalf of the second respondent.

7.Though the petitioner prayed for a larger relief, this Court in the light of the facts and circumstances, directs the second respondent to consider and dispose of the petitioner's representations dated 13.05.2015 and 01.07.2015 on merits and in accordance with law and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner and till then, defer further decision with regard to the reduction of pension payable to the petitioner.

8.The writ petition is disposed of accordingly. No costs.

-sd/-

ASSISTANT REGISTRAR

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

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To

- 1 The Secretary,
The Government of Tamilnadu
School Education Department Fort St.
George Chennai-4
- 2 The Principal Accountant
General (A & E) Tamilnadu No.361 Anna
Salai Chennai-18
- 3 The Director of School
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5 The Secretary
NKT National Higher Secondary School No.41
Dr.Besant Road Triplicane Chennai-5

+1 CC to MR. R.VENKATSAN ADVOCATE. SR.NO.50665
+1 CC to Govt.Pleader. SR.NO.50571

W.P.No.29032 of 2015

CO-GJ
JD 07/10/2015



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