IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 22-04-2016

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THE HONOURABLE MR.JUSTICE NOOTY. RAMAMOHANA RAO

W.P.No.126 OF 2011

S.Sampoorna Ganapathy ... Petitioner

-vs-

1.The Secretary to Government,
Education Department,
Secretariat,
Fort ST.George,
Chennai-9.

2.Accountant General of Tamil Nadu,
Office of A.G.(Accounts A&E) T.N.,
No.361, Anna Salai,
Chennai-600 018. ... Respondents

(R-2 impleaded)
as per order of this court dated 21.08.2012

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, directing the first respondent to consider the appeal representations of the petitioner, dated 13.08.2009, 28.12.2009, and 15.11.2010, and to revise the original pension with the weightage of service of five years.

For petitioner : Mr.R.Kannan

For respondent 1 : Mr.R.M.Muthukumar,
Govt.Advocate.

For respondent 2 : Mrs.T.S.Selvarani



O R D E R

This is a case, where the petitioner, who has voluntarily retired from service while working as the Headmaster of a Higher Secondary School, situated at Madurai City, has sought for the benefit of adding weightage of five years to the service already rendered by him, for the purpose of fixation of higher quantum of pension.

2. The basic facts, which are not in dispute, are, that the petitioner had entered into service as a Teacher and, after having rendered 22 years of service, and while functioning as the Headmaster of a Higher Secondary School, opted to retire voluntarily from the service of the State. It is also not in doubt that he had completed 51 years of age and since he also rendered more than 20 years of service, his offer to retire voluntarily from the service of the State was accepted. Consequently, the petitioner retired from service on the afternoon of 30th September,1986. He was originally sanctioned a pension of Rs.659/- per month, which stood revised to Rs.729/-, pursuant to the orders passed by the State Government, contained in their G.O.No.449 P&A Department, dated 12.10.1999.

3. It is the claim of the petitioner that pension has been sanctioned to him duly computing his qualifying length of service as 22 years only and, if the respondents had added the weightage of five years, he would have earned higher quantum of pension than what was actually fixed and paid to him. That request of the petitioner has been turned down by the Accountant General, second respondent herein, by his communication, dated 15th January,2009, addressed to the District Educational Officer, Madurai. Since the request of the petitioner has been turned down by the Accountant General, the present Writ Petition is filed.

4. Heard Sri R.Kannan, learned counsel for the petitioner; Sri R.M.Muthukumar, learned Government Advocate, on behalf of first respondent; and Smt.T.S.Selvarani, learned counsel for second respondent-Accountant General.

5. When administrative reforms have been undertaken by the Central Government with a view to downsize the human resources, so as to effectively and efficiently manage the services with absolutely needed staff only, and the "Golden Handshake Scheme" has been introduced, by virtue of which scheme, persons, who have crossed the age of 50 years or those who have rendered 20 years of qualifying service, are eligible to opt for voluntary retirement, instead of they waiting to attain the age of superannuation and then retire from service. With a view to encourage the civil servants to derive the benefits of the scheme, a weightage formula has been worked out. Consequently, a weightage of five years is added to the actual qualifying service, subject, of course, to the conditions relevant in that regard.

6. State of Tamil Nadu has also adopted a similar scheme and announced it through G.O.Ms.No.1327, Personnel and Administrative Reforms (F.R.I) Department, dated 27.11.1978. According to this Scheme, Rules relating to Voluntary Retirement of Government Servants have been formulated and

they were appended to the said order. In paragraph 4 of the said order, the constraint, which has a bearing on the controversy in the present Writ Petition, has been spelt out, which reads as under :

> "(4) .... The scheme of weightage will not be applicable to persons who retire under the present scheme of voluntary retirement i.e., on completion of 50 years of age or 25 years of qualifying service."

7. In the Rules appended, in Clause (iii) however, a weightage formula has been introduced for making people understand easily and illustrations have also been provided thereunder. Illustration (d) reads as under :

> "A Government servant seeking voluntary retirement under this scheme on
> (a) - (c) xxxx
> (d) attaining the age of 50 years and completing a qualifying service of 20 years will have no weightage."

8. Going by the scheme, as announced by the State Government through their aforementioned order contained in G.O.Ms.No.1327, dated 27.11.1978, unfortunately, for the petitioner, he had sought for voluntary retirement upon attaining the age of 50 years, and, that too, after completing 20 years of qualifying service. Hence, he is not entitled for any weightage. That is the precise reason, why the Accountant General has turned down the request of the petitioner, for adding weightage of five years to his qualifying length of service, to enable him secure higher quantum of pension.

9. Learned counsel for the petitioner has placed reliance upon a subsequent scheme announced by the State Government through their G.O.Ms.No.1108, Personnel & Administrative Reforms (F.R.III) Department, dated 18.12.1987, through which, the Government have decided to extend weightage, not exceeding five years, for those who are retiring on voluntary basis. Pursuant to this latter scheme, dated 18.12.1987, F.R.56 Clause (d) has been amended and a weightage formula with regard to age and also qualifying service has been incorporated in a tabulated statement thereunder.

10. Though the latter scheme, dated 18.12.1987, extends the benefit of weightage to the qualifying length of service, the said scheme has not been given any retrospective effect. That apart, in paragraph 6 of the scheme, it has been specifically stated that the said order shall take effect from the date of issue of necessary amendment to Fundamental Rules

and Pension Rules. Thus, the scheme announced on 18.12.1987 will not get attracted to the cases of persons, who have retired on voluntary basis, anytime prior thereto.

11. Unfortunately, in the instant case, the petitioner has voluntarily retired from service on 30th September,1986, nearly 15 months earlier to the announcement of the present scheme, dated 18.12.1987. I am, therefore, of the opinion, that rejection of the claim of the petitioner by the Accountant General cannot be faulted with, and the Writ Petition is liable to be dismissed, as it does not contain merit.

12. Accordingly, Writ Petition stands dismissed, but, however, without costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

dixit

To

1.The Secretary to Government,
Education Department,
Secretariat,
Fort ST.George,
Chennai-9.

2.Accountant General of Tamil Nadu,
Office of A.G.(Accounts A&E) T.N.,
No.361, Anna Salai,
Chennai-600 018.

1 cc to Government Pleader, sr.25443
1 cc to Mr.R.Kannan, Advocate, sr.25004



W.P.No.126 OF 2011

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kra 09.05.2016