

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No. 23607 of 2011
and
M.P. No. 1 of 2012

P. Ponnuswami

... Petitioner

Versus

1. The District Educational Officer
Tuticorin
2. The Director of School Education
Chennai - 6
3. The Secretary to Government
School Education
Fort St. George
Chennai - 9
4. The Director of Pensions
250, Block-III, II Floor
D.M.S. Complex
Teynampet, Chennai - 6

... Respondents

Petition filed under Article 226 of The Constitution of India praying for issuing a Writ of Certiorarified Mandamus calling for the records of the third respondent in G.O. (4D) No.6 dated 08.10.2009 and the P.P.O. Order NO.C675077/EDA dated 22.01.2010 and to quash the relevant portion of the order in respect of date of commencement of pension viz., "Miz btspaplg;gLk; ehspypUe;J (முந்தைய காலத்துக்கான நிலுவைத் தொகை பெறும் தகுதியின்றி) and "w.e.f. 08.10.2009" respectively and direct the respondents to pay the pension with effect from 01.09.1966 or in the alternative atleast w.e.f. 16.06.1984 the date of petitioner's superannuation and the proceeding O.M.No.84702/R1/E3/2011 dated 03.11.2011 issued by the second respondent.

(prayer amended as per order dated 20.07.2012 in MP No. 1 of 2012 in WP No. 23607 of 2011)

For Petitioners : Mr. L. Chandrakumar

For Respondents : Mr. A. Kumar
Special Government Pleader

ORDER

The petitioner worked as Hindi Pandit in C.M.S. Middle School, Panaivilai from 01.06.1951 to 31.05.1954, later he joined in Pope Memorial High School, Sawyerpuram, Tuticorin till 31.08.1966. After rendering a total service of 15 years, the petitioner resigned his employment on 31.08.1966. Thereafter, the petitioner sought for payment of pension as contemplated under the then Tamil Nadu Liberalized Pension Rule. Even though the first respondent forwarded proposals to the Accountant General of Tamil Nadu, Chennai, it was returned on 20.02.1991 by the said authority on the ground that since the petitioner resigned on 31.08.1966 after the crucial date of 31.05.1958, he is not entitled for payment of pension as per the then prevailing Pension Rule. The said order of return was communicated by the first respondent on 20.02.1991. Aggrieved by the same, the petitioner filed WP No. 15008 of 2001 before this Court and this Court issued a direction on 03.12.2007 to consider the claim of the petitioner. On the basis of such direction, the third respondent passed G.O. (4D) No.6 dated 08.10.2009 sanctioning minimum pension of Rs.3,050/- to the petitioner from 08.10.2009. This order passed by the third respondent is challenged in this writ petition.

2. The learned counsel for the petitioner would contend that the petitioner is entitled for payment of pension, however, it was not paid from the date on which he resigned the post, rather, it is being paid to him from 08.10.2009. The learned counsel for the petitioner submits that atleast the pension disbursing authority ought to have granted pension to the petitioner from the date on which he would have ordinarily retired from service on 16.06.1984 on attaining the age of retirement, but even that is not forthcoming. The learned counsel for the petitioner also relied on certain orders passed by the respondents in favour of similarly placed persons and seeks for allowing the writ petition as prayed for.

3. The writ petition is opposed by the respondents. The learned Special Government Pleader appearing for the respondents, relying on the counter affidavit of the first respondent, would contend that the petitioner, who has resigned his job long before on 31.08.1966, cannot, as a matter of right, seek for payment of pension from the date of his resigning the employment or from the date on which he would have ordinarily reached the age of superannuation. It is further stated that the respondents, as a special case, granted minimum pension to the petitioner pursuant to the directions issued by this Court on 03.12.2007 in WP No. 15008 of 2001. In any event, the petitioner is not entitled for payment of pension with retrospective effect and therefore he prayed for dismissal of the writ petition.

4. I heard the learned counsel for both sides and perused the materials placed on record. A perusal of the impugned Government Order would clearly reveal that pension was granted to the petitioner as a special case. Further, the petitioner resigned his post on 31.08.1966 and thereafter he slept over for a long time to seek pension.. Ultimately, on 20.02.1991 i.e., after 25 years, when the Accountant General of Tamil Nadu, Chennai, returned the proposal sent by the first respondent for payment of pension to the petitioner, the petitioner challenged the order dated 20.02.1991. Even the order dated 20.02.1991 was not subjected to challenge immediately. The petitioner has filed WP No. 15008 of 2001 before this Court after ten years from the date of the order viz., 20.02.1991. On the basis of a direction issued by this Court on 03.12.2007 to consider the claim of the petitioner, the respondent has sympathetically considered his case and granted pension prospectively. In such view of the matter, I do not find any justification in the claim of the petitioner for payment of pension retrospectively. The writ petition is devoid of merits and it is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rsh

To

1. The District Educational Officer
Tuticorin

2. The Director of School Education
Chennai - 6

3. The Secretary to Government
School Education
Fort St. George, Chennai - 9

4. The Director of Pensions
250, Block-III, II Floor
D.M.S. Complex
Teynampet, Chennai - 6

+1cc to Mr.A.M.Packianathan Easter, Advocate, S.R.No.33580

+1cc to the Government Pleader, S.R.No.33746