

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM

AND

THE HON'BLE MR.JUSTICE P.KALAIYARASAN

Writ Appeal No.2744 of 2012

& M.P.No.1 of 2012

The Accountant General
Accountant General Office (A&E)
361, Anna Salai, Teynampet
Chennai 600 018

..Appellant/4th
Respondent

-vs-

1. A.Francina
2. State of Tamilnadu
rep.by the Secretary to Government
Education Department
Fort St.George, Chennai 9
3. The Director of Elementary Education
Chennai 600 006
4. The Chief Educational Officer
Tiruvallur, Tiruvallur District ..Respondents/Petitioner/
Respondents 1 to 3

WRIT APPEAL filed under Clause 15 of Letters Patent against the order passed in W.P.No.9771 of 2012 dated 17.04.2012.

WP.No.9771 of 2012: Petition presented to this Court to issue a Writ of Mandamus directing the first respondent to sanction the pensionary benefits to the petitioner as per G.O.Ms.No.216 Finance(PAY CELL) Department, dated 22/3/1993 within a date fixed by this Court.

For Appellant : Mrs.Hema Muralikrishnan
For Respondents : No appearance for R1
Mr.P.Karthikeyan,
Government Advocate for R2 to R4

J U D G M E N T

(Judgment of the Court was delivered by
A.SELVAM, J)

This Writ Appeal has been directed against the order dated 17.4.2012 passed in W.P.No.9771 of 2012.

2. The first respondent herein, as petitioner, has filed Writ Petition No.9771 of 2012 on the file of this Court under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus so as to direct the respondents to sanction pensionary benefits as per G.O.Ms.No.216, Finance (Pay Cell) Department, dated 22.3.1993, wherein the present appellant has been shown as fourth respondent.

3. The learned Single Judge, after considering the averments made in the petition, has allowed the same. Against the order passed by the learned Single Judge, present Writ Appeal has been preferred.

4. The learned counsel appearing for the first respondent/petitioner is not present.

5. Considering the nature of argument advanced by the learned counsel appearing for the appellant/fourth respondent, this Writ Appeal is disposed of as follows:

6. The learned counsel appearing for the appellant has sparingly contended that the first respondent/petitioner for similar relief has already filed Writ Petition No.26259 of 2011 on the file of this Court and the same has been dismissed on merits and for the same relief, present Writ Petition has been filed and the learned Single Judge, without considering the nature of the order passed in Writ Petition No.26259 of 2011 has erroneously allowed the present petition and further the present petition is clearly barred by res judicata and under such circumstances, the impugned order passed in Writ Petition No.9771 of 2012 is liable to be set aside.

7. It is seen from the records that the first respondent/petitioner has already filed Writ Petition No.26259 of 2011 for identical reliefs and the same has been dismissed on

merits. It is also seen from the records that for identical reliefs, Writ Petition No.9771 of 2012 has been filed.

8. As rightly pointed out by the learned counsel appearing for the appellant that in the order passed in Writ Petition No.9771 of 2012, the order already passed in Writ Petition No.26259 of 2011 has not at all been considered. Since in the order passed in Writ Petition No.9771 of 2012, no mention has been made with regard to the order passed in Writ Petition No.26259 of 2011, this Court is of the view that the order passed in Writ Petition No.9771 of 2012 is erroneous and the same is liable to be set aside and the matter is liable to be remitted to the single Bench.

In fine, this Writ Appeal is allowed without cost. The order passed in Writ Petition No.9771 of 2012 is set aside and the Writ Petition No.9771 of 2012 is remitted. The learned Single Judge is directed to consider the order passed in Writ Petition No.26259 of 2011 and pass orders on merits. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

ajr
To

1. The Secretary to Government
Education Department
Fort St.George, Chennai 9
2. The Director of Elementary Education
Chennai 600 006
3. The Chief Educational Officer
Tiruvallur, Tiruvallur District
+1 cc to M/s.Hema Muralikrishnan Advocate sr.29463
+1 cc to Government Pleader sr.29492

W.A. No.2744 of 2012

nm(co)
aa10/06/2016