

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2016

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.3551 of 2016

S.Subramanian

.. Petitioner

Vs

1 The Government of Tamil Nadu
Rep. by its Secretary
Department of School Education
Fort St. George Chennai 600 009.

2 The Principal Secretary
Social Welfare and
Nutritious Meal Programme
Fort St. George Chennai 9.

3 The Director of School Education
College Road Nungambakkam
Chennai 600 006

4 The Chief Educational Officer
Salem 1.

5 The Headmaster
Govt. High School
Kalpaganur 636 104
Attur Taluk, Salem District.

6 The Principal Accountant General
(Accounts and Entitlements)
Tamil Nadu, Chennai 600 018.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings of the 6th Respondent in Proceedings Pr./AG (A&E)/ PEN 9/IV/10906126/12-13/ADK/198 dated 03.10.2012 quash the same and consequently direct the 6th Respondent to sanction the pension by taking into account of the petitioner's 50% service in Noon - meal scheme and his entire service as B.T.Asst. and to pay pension and other terminal benefits.

For petitioner : Mr.T.Sellapandian
For R1 to R5 : Mr.R.Vijayakumar
Additional Government Pleader
For R6 : Mr.Vijayashankar

O R D E R

This writ petition has been filed by S.Subramanian, challenging the impugned proceedings of the 6th Respondent in Proceedings Pr./AG (A&E)/ PEN 9/IV/10906126/12-13/ADK/198 dated 03.10.2012 and to quash the same and consequently direct the 6th Respondent to sanction the pension by taking into account of the petitioner's 50% service in Noon - Meal scheme and his entire service as B.T.Asst. and to pay pension and other terminal benefit.

2. Mr.R.Vijayakumar, learned Additional Government Pleader takes notice for the respondents 1 to 5 and Mr.R.Vijayashankar, learned counsel takes for the sixth respondent. By consent of both sides, the writ petition itself is taken up for disposal.

3. The learned counsel for the petitioner submitted that the petitioner, after appointing as Noon Meal Organiser on 22.6.1984, had written the Special Examination conducted by the Teachers Recruitment Board and he was selected and appointed as B.T.Assistant in Botany subject by the Director of School Education, Chennai by order dated 30.8.2006 and he was also posted at Government Girls Higher Secondary School, Pellipalayam, Namakkal District. Subsequently, he was transferred and posted at 5th respondent school on 04.6.2008 and after reaching the age of superannuation, he retired from service on 29.02.2012. Though the 5th respondent school has forwarded the pension proposal to the 6th respondent as early as on 14.6.2012, the same has been returned on the ground that as per G.O 48, dated 25.8.2009 and G.O.6 dated 06.01.2010, the service rendered by the petitioner in the post of Noon Mean Organiser cannot be taken into account for the purpose of pension. The learned counsel for the petitioner has taken support from the similar order dated 27.6.2012 passed by this Court in WP.No.7070 of 2011 in the case of P.MARY vs.THE GOVERNMENT OF TAMIL NADU AND OTHERS and submitted that the same order may be passed in this writ petition also.

4. The grievance of the petitioner is that as he has been regularisd as B.T Assistant with effect from 07.9.2006, the service rendered by him as Noon Meal Organiser has to be taken into account for grant of pension. In similar circumstances, this court, in the case of P.MARY vs.THE GOVERNMENT OF TAMIL NADU AND OTHERS, while setting aside the similar impugned order, has directed the respondents therein to resubmit the proposal for pension of the petitioners to the office of the Principal Accountant General for authorising pension, within a period of four weeks from the date of receipt of a copy of that order and the Principal Accountant General was directed to authorise pension and other terminal benefits based on G.O.Ms.No.6, Social Welfare and Nutritious Meal Department, dated 06.1.2000, by counting 50% service rendered by the petitioners in non pensionable post along with the regular service within a period of four weeks thereafter.

5. The order passed in the above writ petition is squarely applicable to the case of the petitioner. Therefore, a direction is issued to the 5th respondent, namely, the Headmaster, Government High School, Kalpaganur, Attur Taluk, Salem District, to re-submit the proposal to the 6th respondent within a period of four weeks from the date of receipt of a copy of this order and on receipt of the same, the sixth respondent, namely, the Principal Accountant General, Chennai, is directed to pass final orders within a period of three weeks thereafter.

The writ petition is disposed of with the above directions.
No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

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To

1. The Secretary
Department of School Education
Fort St. George Chennai 600 009.
- 2 The Principal Secretary
Social Welfare and Nutritious Meal Programme
Fort St. George Chennai 9.

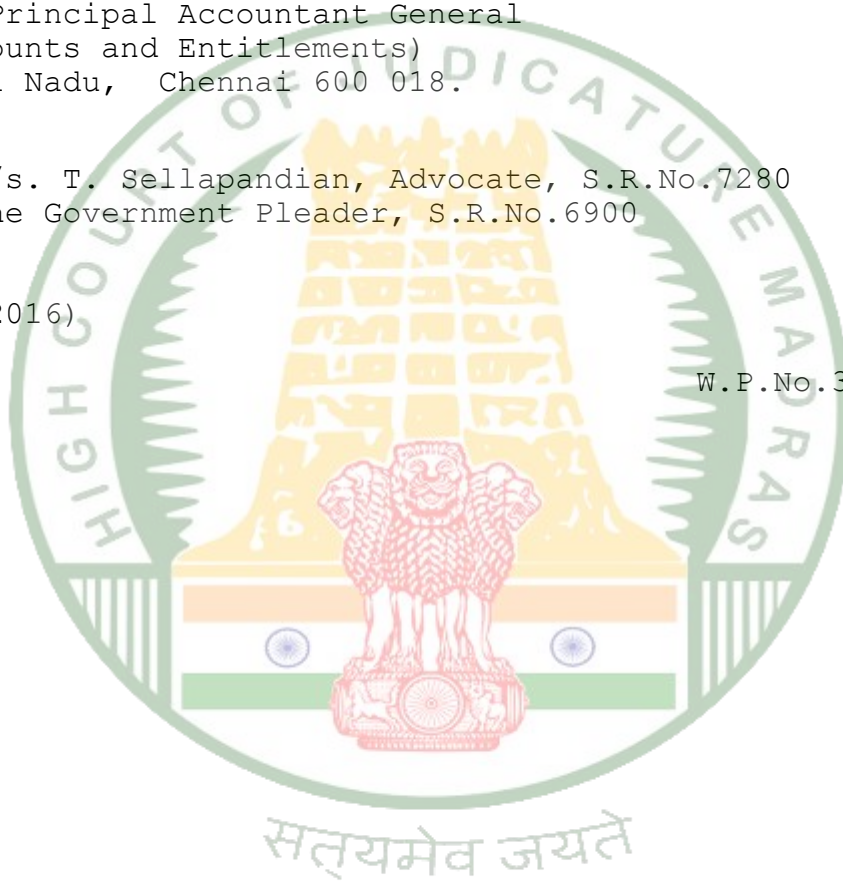
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- 3 The Director of School Education
College Road Nungambakkam
Chennai 600 006
- 4 The Chief Educational Officer, Salem 1.
- 5 The Headmaster, Govt. High School
Kalpaganur 636 104
Attur Taluk, Salem District.
- 6 The Principal Accountant General
(Accounts and Entitlements)
Tamil Nadu, Chennai 600 018.

+1cc to M/s. T. Sellapandian, Advocate, S.R.No.7280
+1cc to the Government Pleader, S.R.No.6900

RSI(CO)
EU(21/03/2016)

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