



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD) .No.12401 of 2016

S.P.Saraswathi

... Petitioner

Vs.

1.State of Tamilnadu,
Rep. By Secretary,
Department of School Education,
Fort St. George,
Chennai -9.

2.The Director of School Education,
D.P.I,
Chennai - 6.

3.The Joint Director,
Directorate of (*)Higher Secondary Education,
D.P.I,
Chennai -6.

4.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.

5.The Headmaster,
Government Boys Higher Secondary School,
Kadayanallur,
Tirunelveli District.

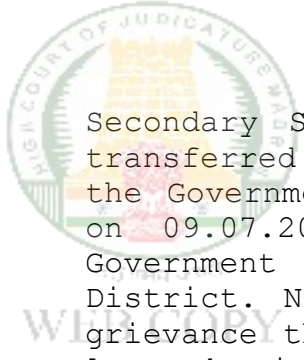
... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus directing the respondents to pass an order accepting the petitioner's voluntary retirement pursuant to the representation, dated 31.07.2015, which was recommended by the fifth respondent on 02.09.2015 from the due post of the Tamil Nadu Higher Secondary Education Service.

For petitioner : Mr.R.Murugan,
For Respondents : Mr.T.S.Mohammed Mohideen,
Additional Government Pleader

ORDER

Tmt.S.P.Saraswathi, was appointed as Secondary Grade Teacher on 04.11.1987 at Kamarajar Municipality Higher Secondary School, Pettai, Tirunelveli District. Thereafter, on 17.10.1998, she was appointed as P.G.Assistant(Botany) at K.A.K.M. Municipality Higher Secondary School, Vellore. Therefore, she was relieved from Kamarajar Municipality Higher



Secondary School, Pettai and subsequently, in the year 2001, she was transferred from K.A.K.M.Municipality Higher Secondary School, Vellore to the Government Girls Higher Secondary School, Sivagangai. Subsequently, on 09.07.2008, she was transferred to the fifth respondent School Government Boys Higher Secondary School, Kadayanallur, Tirunelveli District. Now she is working in the fifth respondent school. It is her grievance that her mother, who is having chronic disease and father-in-law, who is a heart patient, are living in the native place Nagercoil. Hence, she is not able to take care of them. Therefore, she wanted to go on voluntary retirement and for that, she made an application on 31.07.2015. The fifth respondent school has also accepted the same and has recommended the request of the petitioner for voluntary retirement. But, till date, the respondents has not taken any steps in the petitioner's application. In view of the long pendency of the petitioner's application, dated 31.07.2015, she has been advised to come to this Court. Therefore, she sought for a direction to the respondents to accept her request for voluntary retirement.

2. Mr.T.S.Mohammed Mohideen, learned Additional Government Pleader takes notice on behalf of the respondents and drawing the notice of this Court to Rule 56(3)(a) of the Tamil Nadu Government Fundamental Rules, he would submit that only a Government servant, who has attained 55 years and who has completed 20 years of qualifying service may retire from service by giving notice of not less than three months in writing directly to the appointing authority with a copy marked to his immediate superior officer for information.

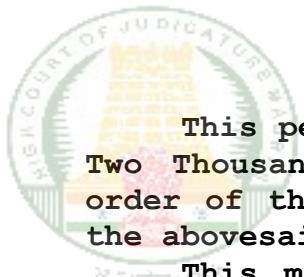
3. Rule 56(3)(a) of the Fundamental Rules reads as follows:

56(3) Voluntary retirement-(a) A Government servant who has attained 55 years and who has completed 20 years of qualifying service may retire from service by giving notice of not less than three months in writing direct to the appointing authority with a copy marked to his immediate superior officer for information. Before giving such notice, he may satisfy himself by means of a reference to such authority that he has completed the required number of qualifying service.

4. But, in the present case, the petitioner's date of birth is 05.01.1960. Hence, she has complied with the first condition stipulated under Rule 56(3). Therefore, this Court finds no impediment for giving a direction to consider her request seeking voluntary retirement.

5. In view of the above, the fourth respondent is directed to consider the request of the petitioner for voluntary retirement as recommended by the fifth respondent, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, the Writ Petition is disposed of. No Costs.



This petition having been posted on this day the tenth day of August Two Thousand and Sixteen "FOR BEING MENTIONED". In pursuance to the order of this Court dated 03/08/2016 and made herein in the presence of the abovesaid Advocate, this Court made the following order:

This matter was taken up 'for being mentioned' at the instance of the petitioner.

2. By an order, dated 15.07.2016, this Court has disposed of the afore-said Writ Petition with a direction to the fourth respondent to consider the request of the petitioner. However, the learned Counsel for the petitioner submitted that the case of the petitioner has to be considered by the respondents 2 to 4.

3. The learned Additional Government Pleader has not made any serious objections in considering the case of the petitioner, by the respondents 2 to 4.

4. Therefore, a direction is issued to the respondents 2 to 4 to consider the request of the petitioner for voluntary retirement as recommended by the fifth respondent. The remaining portion of the order shall hold good in all respects. This order shall form part of the earlier order dated 15.07.2016. The Registry is directed to issue a separate order copy to the petitioner.

Sd/
Assistant Registrar(CS-II)

(*) Cause Title amended as per order
dated 08.09.2016 in
WP(MD) No.12401/2016 by SVJ.

Sd/
Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

To be substituted the order copy already despatched on 03.08.2016.

To be substituted order already despatched on 24.08.2016.

1. The Secretary, Department of School Education,
Fort St. George, Chennai -9.
2. The Director of School Education, D.P.I, Chennai - 6.
3. The Joint Director, Directorate of Higher Secondary Education,
D.P.I, Chennai -6.
4. The Chief Educational Officer, Tirunelveli, Tirunelveli District.
5. S.P. Saraswathi, W/o. S. Valluvan, P.G. Assistant (Botany), Government Boys
Higher Secondary School, Kadayanallur, Tirunelveli District.

+1CC to M/S. R. Murugan, Advocate, SR.No. 36795

W.P(MD).No.12401 of 2016
15.07.2016

pm

AM/NGM.MP/SAR-III/03.08.2016/3P/6C

PA/SS-2/24.08.2016/3P/7C