



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2016

CORAM :

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.19803 of 2016

Jeeva Santhakumari

... Petitioner

vs.

1)The Director of Rural Development
and Panchayat Raj,
Panagal Building,
No.151, Jennis Road,
Saidapet, Chennai-600 015.

2)The District Collector,
Virudhunagar District.

3)The Commissioner,
Narikudi Panchayat Union,
Narikudi, Virudhunagar District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 1st respondent herein in Se.Mu.No.29362/2016/E1 dated 26.07.2016, quash the same and further direct the 1st respondent herein to sanction family pension and arrears of family pension to the petitioner from 01.12.2000 onwards with appropriate interest within a reasonable time as may be specified by this Hon'ble Court.

For Petitioner	: Mr.E.V.N.Siva
For R1 & R2	: Mr.M.Murugan, Government Advocate
For R3	: Mr.R.Velmurugan

ORDER

This Writ of Certiorarified Mandamus has been filed to quash the impugned proceedings issued by the 1st respondent in Se.Mu.No.29362/2016/E1, dated 26.07.2016, with a consequential direction to the 1st respondent, to sanction family pension and arrears of family pension to the petitioner from 01.12.2000 onwards, with appropriate interest within a reasonable time as may be specified by this Court.



2.The background facts leading to filing of this writ petition runs as under:-

The petitioner's husband was appointed as Rural Medical Officer, Iluppaiyur, with effect from 01.01.1986, by the 3rd respondent, vide proceedings dated 29.12.1985, on consolidated pay. The petitioner's husband was working until the completion of 60 years of age and retired from service on 30.06.1997. Only after the retirement, the petitioner's husband was placed in the time scale of pay from 01.01.1986, as per G.O.Ms.No.16, Rural Development Department, dated 29.01.1998. When the petitioner's husband approached the respondents for grant of pension, he was intimated that only after obtaining necessary orders from the Government, pension will be sanctioned. The State Government issued G.O.Ms.No.250, Rural Development Department, dated 14.09.2000, declining service benefits to the Rural Medical Officers and after two months of the said G.O., the petitioner's husband died on 01.11.2000, that is, even before the sanction of pension. In the meantime, a batch of writ petitions were filed, challenging G.O.Ms.No.250. Finally, the Division Bench, by order, dated 19.04.2006, in W.P.Nos.30003, 30750 etc., of 2002 batch, held that G.O.Ms.No.250 is invalid, in so far as the denial of service benefits to the Rural Medical Officers are concerned. Thereafter, the Government issued orders in G.O.Ms.No.164 Rural Development Department, dated 24.09.2007, sanctioning pensionary benefits to the Rural Medical Officers appointed before 14.09.2000. However, pension was denied to several persons. Similarly placed Rural Medical Officers filed W.P.Nos.8464 and 8469 of 2009, before this Court and this Court, by the order, dated 02.09.2010, allowed those writ petitions, by directing the respondents therein, to disburse the monetary benefits, within a period of four weeks. The writ appeals filed by the respondents, against the order made in W.P.Nos.8464 and 8469 of 2009, dated 02.09.2010, were dismissed on 21.01.2013. Therefore, it is clear that based upon the orders passed by this Court and also based upon G.O.Ms.No.164, the petitioner's husband, who is also similarly placed, like that of the petitioners in the above writ petitions, is also entitled to the relief as claimed by him.

3.The specific case of the respondents is that as per Rule 43 of the Tamil Nadu Pension Rules, the minimum qualifying service for pensionary benefits is 10 years, but, so far as the petitioner's husband is concerned, he has served only from 01.06.1986 to 30.04.1995 i.e., 9 years and 4 months and therefore, he is not entitled for pension.

4.Whether the abovesaid contention is correct or not, is the issue to be decided in this case.



5. So far as the petitioner's husband is concerned, his date of appointment is 01.06.1986 and the date of retirement is 30.06.1997, but the respondents have calculated his service only upto 30.04.1995, which is the completion of service at the age of 58. When the petitioner's husband has been allowed to work after 58 years of age and after having extracted work from him upto 30.06.1997, that is, upto the completion of 60 years, it is unfair on the part of the respondents to contend that he is eligible to be considered, only for the services rendered upto his age of 58 years. Therefore, that contention cannot be accepted. The respondents are also estopped from raising such dispute, after extracting work from the petitioner's husband upto his age of 60 years. They should have passed an order of retirement on his attainment of 58 years, but, no such order has been produced before this Court. Therefore, the contention that the petitioner has completed service, only for a period of 9 years and 4 months, cannot be accepted.

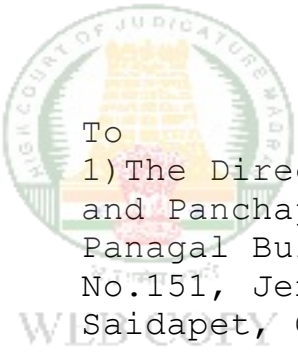
6. It has been mainly contended that when the 3rd respondent has awarded Selection Grade to the petitioner's husband, after having found him to receive the same, he is estopped from disputing that the petitioner's husband had not completed the qualifying service, for grant of pension. By order, dated 22.05.1998, the 3rd respondent has awarded the Selection Grade to the petitioner's husband, stating that he has completed 10 years of service and therefore, he is eligible for Selection Grade from 01.01.1996 and he has also been awarded time scale of pay in the same order.

7. Thus, it is a case where the impugned proceedings of the 1st respondent, dated 26.07.2016, is liable to be quashed and accordingly quashed. Even though the deceased/petitioner's husband is eligible for pension, the learned counsel for the petitioner would submit that the petitioner is now prepared to quit the claim for pension. However, the petitioner is insisting upon the family pension to be sanctioned by the 1st respondent. This submission is placed on record. Accordingly, the 3rd respondent is directed to submit the proposal for family pension to the 1st respondent, within a period of two weeks from the date of receipt of a copy of this order and on such proposal being submitted, the 1st respondent shall sanction the same in view of the judgment in this case forthwith.

With the above directions, this Writ Petition stands allowed. No costs.

Sd/-
Assistant Registrar (CS I)

/True copy/



To

1)The Director of Rural Development
and Panchayat Raj,
Panagal Building,
No.151, Jennis Road,
Saidapet, Chennai-600 015.

2)The District Collector,
Virudhunagar District.

3)The Commissioner,
Narikudi Panchayat Union,
Narikudi, Virudhunagar District.

+1cc to M/s.R.Velmurugan, Advocate SR.No.69041
+1cc to special Government Pleader SR.No.68626

nbi

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