



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2016

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THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

W.P (MD) No.6431 of 2011

A. Raviya Bibi

.. Petitioner

vs.

1. The District Collector
Madurai.

2. The Commissioner,
Madurai Corporation, Madurai.

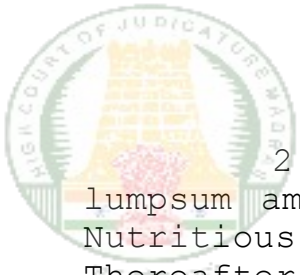
.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus thereby call for the records of the 1st Respondent in Na.Ka.No.629/2011/Sa.Vu.Thi.1 dated 25-04-2011 and quash the same as arbitrary illegal and capricious and further direct the Respondents to grant pension and other monetary benefits to the petitioner on par with her co-employees.

For Petitioner	:	Mr. P. Ganapathi Subramanian
For 1 st Respondent	:	Mr. S.Kumar
		Additional Government Pleader
For 2 nd Respondent	:	No Appearance

O R D E R

The writ petitioner was appointed as Noon Meal Organizer under the second respondent on 03.06.1986. Initially, she was appointed in Madurai Corporation Primary School Managari from 1982 - 2000. Thereafter, he worked as Noon Meal Organizer at Women Higher Secondary School, Goripalayam. After closure of school for want of students, she was put in wait list and thereafter, on 12.03.2001 she was appointed in Madurai Corporation Karumpalai Primary school. By order dated 05.09.2002, she was relieved from her duties. The relieving order was issued for want of students at Madurai Corporation School. As the petitioner was the junior most and she could not be accommodated in the vacancies thereafter. While the matter stood thus, she attained the age of superannuation on 30.06.2006. Therefore, there is no occasion to ~~re-engage her~~. The writ petitioner had made a representation on 16.04.2011 for the purpose of pension.



2. According to the petitioner, she is entitled to a lumpsum amount of Rs.50,000/- as per G.O.Ms.No.62 Social Welfare Nutritious Meal Organization Department dated 28.04.2005. Thereafter, the Government has introduced the pension scheme vide G.O.Ms.No.391 Finance (Salary Division) Department dated 15.09.2008 to all the anganwadi workers of the Nutritious Meal Department. This pension benefit was extended even to the persons retired from service before 15.09.2008 by G.O.Ms.No.170, Social Welfare and Nutritious Meal Department dated 03.09.2010.

3. The first respondent without considering the Government Orders had rejected the representation of the petitioner in his proceedings in Na.Ka.No.629/2011/ sa.oo.p dated 25.04.2011. Aggrieved by the order of the first respondent, the petitioner is before this Court.

4. The first respondent filed a counter stating that the writ petitioner was relieved from service for want of students strength in the Nutritious Meal Centre. In view of the fact that the petitioner was the junior most, she was kept in wait list vide proceedings of the Deputy Commissioner, Madurai Corporation in No. A14/25909/2002 dated 05.09.2002. She could not be accommodated till 30.06.2006, the date of her superannuation for want of vacancies. This information was also communicated and it is said to have received by the petitioner on 13.12.2010. Since the petitioner had applied for the pension long after her date of retirement, the request of the petitioner could not be considered.

5. Heard both sides.

6. It is an admitted fact that the writ petitioner was appointed as the Noon Meal Organizer in the year 1986 and she was kept in wait list in the year 2002. She had attained the age of superannuation on 30.06.2006 and could not be re-engaged for want of vacancies. So from the above facts, it can be inferred that the petitioner has put in about 20 years of service.

7. The Government had passed various orders in respect of terminal benefits and pension periodically. The G.O.Ms.No.62, Social Welfare Department, dated 28.04.2005 specifies the lumpsum payment and thereafter G.O.Ms.No.391, Finance (Salary Division) dated 15.09.2008, G.O.Ms.No.175 dated 31.12.2009 are passed granting the pensionary benefits to the employees working in nutritious meal programme. By G.O.Ms.No.170, Social Welfare Department, dated 3.9.2010, the pension scheme is extended even to people who had retired before 15.09.2008, according to which, the petitioner is also entitled to receive pension as she retired on 30.06.2006 after completion about 20 years of service.



8. The writ petitioner had made a representation dated 16.04.2011. It was rejected by the first respondent as it was belated. In so far as the pension is concerned, cause of action recurs every month, when pension is due to the retired employee. Therefore, the reason given by the first respondent is not sustainable. Therefore, this Court is of the view that a suitable direction shall be issued to the first respondent to re-consider the representation in the light of Government Orders mentioned above.

9. Accordingly, the writ petition is disposed of with a direction to the first respondent to re-consider the representation of the petitioner dated 16.04.2011 in the light of G.O.Ms.No.170 Social Welfare and Nutritious meal Programme Department dated 03.09.2010 and pass orders within a period of three months from the date of receipt of copy of this order. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector, Madurai.
2. The Commissioner,
Madurai Corporation, Madurai.

W.P (MD) NO.6431 OF 2011
01.12.2016

CM/TK

MKV-SV-MMS-SAR 2/24.4.2017/3P-3C