

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:24.11.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.1731 of 2015 and

M.P.No.1 of 2015

- 1.The Government of Tamil Nadu
Rep. by Secretary to Government
School Education Department
Fort St. George, Chennai - 600 009
 - 2.The Director of School Education
College Road, Chennai - 6
 - 3.The Chief Educational Officer
Chennai District
Chennai-15
 - 4.The District Educational Officer
North Chennai
Chennai - 600 008
- ...Appellants/Respondents
- Vs
- 1.V.Manimegalai Ramanathan
 - 2.The Shri Shudhadwaita Vaishnavi
Higher Secondary School
Represented by its Secretary
30E, 12, Agraharam
Chennai - 600 003
- ...Respondent/Respondents/
Petitioners/5th Respondent

Prayer:- Writ Appeal filed under clause 15 of Letters Patent, against the order made in W.P.No.13892 of 2010 dated 06.06.2014.

Prayer in WP.No.13892 of 2010:Petition filed under Article of 226 of the constitution of India to issue a writ of mandamus directing the respondents to count the service rendered by the petitioner as Tamil Pandit for a period from 4.10.1995 to 19.2.1997 in 5th respondent school as qualifying service and add the same to the service rendered by the petitioner for a period from 20.2.1997 to 31.8.2006 when the petitioner retired from service for the purpose of pension and other terminal benefits without reference to the letter No. 13506/D2/2000-3 dt 21.6.2001 of the 1st respondent and to direct the respondents to send the pension proposal to the Accountant General chennai for the purpose of sanction of pension and other terminal benefits and to grant pension and arrears of pension

For Appellant : Mr.V.Anadamurthy
Special Government Pleader
For Respondents: Mr.R.Saseetharan for R1

J U D G M E N T

K.K. SASIDHARAN, J.

The request made by the first respondent to give weightage to her service for the period from 04.10.1995 to 19.02.1997 was not considered by the appellants and the same resulted in filing a writ petition in W.P.No.13892 of 2010. The learned single Judge issued a mandamus directing the appellants to count the service of the first respondent for the period from 04.10.1995 to 19.02.1997 for the purpose of computing the service period for pension. The order is put in issue at the instance of the appellants.

2.We have heard the learned Special Government Pleader appearing on behalf of the appellants. We have also heard the learned counsel for the first respondent.

3.There is no dispute that the appellant was appointed on 4 October 1995 as Tamil Pandit. The appointment was made through the Employment Exchange. The Chief Educational Officer, Chennai, approved the appointment with effect from 20 February 1997. The petitioner was not given pension for the reason that she retired from service on attaining the age of superannuation on 31 August 2006, and she was not having the required 10 years of service. The first respondent, therefore, filed the writ petition.

4. The Chief Educational Officer approved the appointment on 20.02.1997. However, the fact remains that the first respondent was working from 04.10.1995 pursuant to the order of appointment.

5. The Director of Education appears to have turned down the request to count the service from 04.10.1995 to 19.02.1997 on the ground that there is no provision for giving retrospective effect to the order of approval of the service of the employee. The said order was also referred to in the affidavit filed in support of the writ petition in W.P.No.13892 of 2010. The first respondent made a specific prayer to grant her the benefit of service from 04.10.1995 for the purpose of fixing the pension. In case the period from 04.10.1995 to 19.02.1997 is taken note of, the first respondent would be having the sufficient service so as to make her eligible for pension.

6. There is no dispute that the first respondent worked for the period from 04.10.1995 to 19.02.1997. The delay in passing orders, for approval of appointment by the Chief Educational Officer, should not cause prejudice to the first respondent. In case the period from 04.10.1995 to

19.02.1997 is taken into account, the first respondent would be having the qualifying service for pension. The learned single Judge was, therefore, perfectly correct in allowing the writ petition. We do not find any error or illegality in the said order warranting interference.

7. We are informed that the District Educational Officer by order dated 09.12.2015, implemented the direction given by the learned single Judge, pending disposal of the appeal. However, the monetary benefits have not been paid to the first respondent. We direct the appellants to pay the admissible benefit to the first respondent, taking into account the order passed by the learned single Judge dated 06.06.2014 and the order passed by the District Educational Officer dated 09.12.2015, within a period of two months from the date of receipt of a copy of this judgment.

The intra court appeal is dismissed with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government
School Education Department
Fort St. George, Chennai - 600 009

2.The Director of School Education
College Road, Chennai - 600 006

3.The Chief Educational Officer
Chennai District
Chennai-600 015

4.The District Educational Officer
North Chennai
Chennai - 600 008

+1cc to the Government Pleader SR.No.84367

+1cc to Mr.R.Saseetharan, Advocate SR.No.83796

W.A No.1731 of 2015 &
M.P.No.1 of 2015

KK(CO)

sm:14.12.2017