

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.3.2017

CORAM

THE HON'BLE MR.HULUVADI G.RAMESH, ACTING CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

Writ Appeal No.221 of 2017
and
CMP No.3754 of 2017

1. The State of Tamil Nadu
rep. by its Principal Secretary to Government
School Education Department
Secretariat
Chennai 600 009.
2. The Director of Elementary Education
College Road
Chennai 600 006.
3. The District Elementary Educational Officer
Pudukkottai District
Pudukkottai.
4. The Assistant Elementary Educational Officer
Pudukkottai. ... Appellants/Respondents 1 to 4

Vs.

1. S.Arockiamary
2. The Secretary
Diocesan Educational Committee
T.M.S.S.S.
P.B.No.77, Trichy Road
Thanjavur 613 001.
3. The Correspondent
R.C. Middle School
Marthandapuram
Pudukkottai 622 001.
4. The Accountant General (A&E)
Tamil Nadu
Anna Salai,
Chennai 600 018.
... Respondents/Petitioner/Respondents 5 to 7

Appeal under Clause 15 of Letters Patent filed against the order dated 22.4.2016 made in W.P.No.11070 of 2013.

Writ Petition filed Under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records connected in Government letter No.37355/P2/2007-12 School Education Department dated 11.9.2012 passed by the 1st respondent and quash the same and direct the respondents to sanction pensionary benefits to the petitioner by treating the period from 4.10.1996 to 31.10.2002 as non duty period as given to Dr.V.S.P.Manickam and Thiru C.Abdul Latif.

For Appellants : Mr.T.N.Rajagopalan
Spl. Govt. Pleader

J U D G M E N T

(Delivered by the Hon'ble Acting Chief Justice)

This writ appeal is directed against the order of the learned single Judge dated 22.4.2016 made in W.P.No.11070 of 2013.

2. Heard the learned Special Government Pleader appearing for the appellants.

3. The first respondent was appointed as Secondary Grade Teacher on 09.6.1970 and thereafter, as Headmistress on 05.6.1976. On 03.10.1996, she was transferred by the third respondent to do social work, countersigned by the fourth appellant. After attaining the age of superannuation on 31.10.2002, she was denied pensionary benefits by the fourth respondent on the ground that she was not working as Teacher at the time of superannuation. The first respondent made a representation to the first appellant seeking pensionary benefits and the same was rejected. Therefore, the first respondent was constrained to file the writ petition.

4. It is not in dispute that the first respondent had rendered service as Teacher/Headmistress from 06.6.1970 till 03.10.1996, nearly for a period of 26 years. Even assuming that

the first respondent was not in teaching profession thereafter, namely from 03.10.1996, till she attained the age of superannuation, the period of service put in by the first respondent, namely 26 years, would be sufficient to make the first respondent eligible to get pensionary benefits.

5. Further, the first respondent was transferred by the third respondent and the same was countersigned by the fourth respondent, to do social work, by discharging her from the profession of teaching. Therefore, it is clear that the said transfer of the third respondent was not made on the request made by the first respondent and that it was made only at the instance of the third respondent, for which, no fault can be attributed against the first respondent. Therefore, the first respondent having worked till she attained the age of superannuation should not be deprived of her pensionary benefits.

6. We are, therefore, of the considered view that the learned single Judge had rightly set aside the order of the first appellant rejecting the request of the first respondent for pensionary benefits and directed the first appellant to pay the pensionary benefits to the first respondent, by taking into account the period of service put in by the first respondent from 09.6.1970 to 01.10.1996, within a period of eight weeks.

7. In view above, the writ appeal is dismissed, upholding the order of the learned single Judge. The first appellant is directed to pay the pensionary benefits to the first respondent within a period of eight weeks from the date of a copy of this order. There shall be no order as to costs. Consequently, CMP No.3754 of 2017 is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kpl
To

1.The Accountant General (A&E)
Tamil Nadu
Anna Salai
Chennai 600 018.

2.The Principal Secretary to Government,
State of Tamil Nadu,
School Education Department
Secretariat
Chennai 600 009.

3. The Director of Elementary Education,
College Road,
Chennai 600 006.

4. The District Elementary Educational Officer,
Pudukkottai District,
Pudukkottai.

5. The Assistant Elementary Educational Officer,
Pudukkottai.

+1cc to the Government Pleader Sr.14706

W.A.No.221 of 2017.

ak[col
srg 7/4/2017



WEB COPY