

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.08.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.3291 of 2010

K.Manian

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Petitioner

Vs

1.The Director,
Department of School Education,
Nungambakkam,
Chennai - 600 006.

2.The Joint Director,
Directorate of Elementary Education,
DPI Campus,
College Road,
Nungambakkam,
Chennai - 6.

3.The District Educational Officer,
District Elementary Education Department,
5th Street Gandhi Nagar,
Tiruvannamalai.

4.The Assistant Elementary Educational Officer,
District Elementary Education Department,
5th Street Gandhi Nagar,
Thiruvannamalai.

5.The Secretary,
Aided Primary School,
Chinna Kangayanur Village,
Pallikondapattu Village,
Thiruvannamalai Taluk District.

6.The Accountant General (A&E)
Tamil Nadu, Teynampet,
Chennai - 600 018.

(R6-Impleaded as per order dated 03.12.2014 by in M.P.Nos.1,2,
1 and 2/2012 in W.P.Nos.3290 and 3291 of 2010)

7.The President,
Vellore District Government Employees Co-operative
Society Ltd., C.3858, No.49, Kottai Road, Bharathiyar Salai,
(Fort Campus), Vellore - 631 001.

8.The President,
Tiruvannamalai Panchayat Union Employees and Teachers

and aided School Teachers Co-operative Credit and Thrift Society Limited, 11/6, Mathalangula Main Road, Mosque (Opp), H.H.453, Tiruvannamalai.

(R7 and R8 Impleaded as per order dated 10.12.2014 by in M.P.No.2 of 2014 in W.P.Nos.3290 and 3291 of 2010)

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus or any other appropriate writ direction or order in the nature of a writ directing the 5th respondent to process the application for pensionary benefits submitted by the petitioner consequent on his retirement on 30.06.2009 AN as Secondary Grade Teacher of 5th respondent school and to submit the same to the sixth respondent and consequently direct the 6th respondent to authorise the payment of pensionary benefit to the petitioner, all within a limited time-frame and pass such further or other orders.

For Petitioner :M/s.J.Muthukumaran

For Respondents :Mr.R.Govindasamy
Special Government Pleader
for R1 to R4
M/s.S.N.Ravichandran for R5
M/s.V.Vijay Shankar for R6
M/s.G.Thilakavathi
Senior Counsel for R7

ORDER

The writ petition has been filed by the petitioner seeking for issuance of a Writ of Certiorarified Mandamus to direct the 5th respondent to process the application for pensionary benefits submitted by the petitioner, consequent on his retirement on 30.06.2009 AN as Secondary Grade Teacher of the 5th respondent school and to submit the same to the 6th respondent and consequently, to direct the 6th respondent to authorise the payment of pensionary benefit to the petitioner all within a limited time framed by this Court.

2. I heard Mr.J.Muthukumaran, learned counsel appearing for the petitioner; Mr.R.Govindasamy, learned Special Government Pleader for respondents 1 to 4; M/s.S.N.Ravichandran, learned counsel appearing for the 5th respondent; and Mrs.G.Thilakavathi, learned counsel appearing for the 7th respondent and also perused the materials available on record.

3. The Writ Petitioner has worked as Secondary Grade Teacher in the 5th respondent-School and retired from her service on 30.06.2009. On 12.11.2008, the 5th respondent directed the petitioner to submit his application for disbursing his retirement benefits including pension. In compliance with the said direction, the petitioner had submitted his application for disbursement of terminal benefits. After submitting the application, the 5th respondent, by his letter dated 28.09.2007, has directed the petitioner to obtain "No Objection Certificate" or "No Due Certificate" from Co-operative Societies and the Banks. After discharging their debts due thereon, shall produce such "No Objection Certificate". The petitioner has requested the respondent that the petitioner's application for terminal benefits of her retirement would be considered and the same may be recommended to the authorities concerned for the disbursement of terminal benefits and the 5th respondent has no authority to withhold her application for terminal benefits on the extraneous grounds. Hence, the writ petition has been filed for the aforesaid prayer.

4. The writ petitioner also states that the 5th respondent is expected to send the proposal of the terminal benefits to the authority concerned and the 5th respondent has no right to withheld the application for terminal benefits on the ground of non-production of No Objection Certificate from the Government Societies and banks.

5. In the counter affidavit filed by the 5th respondent, it is seen that the writ petitioner has reached superannuation on 30.06.2009. While he was in service, he has obtained a loan from the nationalized banks and Co-operative Societies on the basis of the pay certificate issued by the 5th respondent. Since he has not discharging loan, the same was placed before the school committee on 23.07.2007 and decision has been taken in the meeting directing the petitioner to submit the application for pension along with the no due certificate from the respective banks, by his letter dated 12.11.2008. In spite of many reminders, the writ petitioner has not chosen to submit the necessary proposal for pension so as to enable the 5th respondent/Management to forward the same to the authorities.

6. The 5th respondent further states that the writ petitioner has obtained a loan from the Indian Overseas Bank, Thiruvannamalai and also obtained the loan from the Thiruvannamalai Panchayat Union Government Servants Co-operative Thrift and Credit Society, Thiruvannamalai. As per the demand notice of the T.V.Malai P.U. Employees Teachers and Aided School Teachers Co-Operative Thrift and Credit Society Limited, the interest has be paid by the petitioner till the

date of settling the amount to the Bank as well as the Society.

7. The 5th respondent has directed the petitioner to obtain no due certificate from the above banks and societies. Thereafter only they would send a proposal to the authority. Therefore, the 5th respondent has prayed before this Court to dispose of the writ petition.

8. Admittedly, the writ petitioner worked in the 5th respondent School for more than 31 years and he also admitted that during the course of his service, she obtained loan from the Bank as well as the Society. When the writ petitioner was reached superannuation on 30.06.2009, he was directed to submit his application for pension benefit, by the letter of the 5th respondent on 12.11.2008. Accordingly, the petitioner has submitted his application for pension benefits. But, the 5th respondent has directed the writ petitioner to produce No Objection Certificate, which would be obtained from the Society and Bank and thereafter only, they would forward the said application to the authority.

9. This Court finds force in the argument of the writ petitioner. When the writ petitioner was put up his service unblemished in the 5th respondent school, the 5th respondent should forward his application for the service benefits of the petitioner to the authority concerned. No Rule or Act says that unless the writ petitioner has produced No Objection Certificate obtained from the Bank and the Society, the 5th respondent should not send his proposal to the authority concerned for getting terminal benefits. Therefore, when the writ petitioner has submitted his application on 23.07.2007 as per direction of the 5th respondent, it is duty bound of the 5th respondent to forward the said application to the authority concerned with regard to the terminal benefits of the petitioner.

10. This Court finds that it is the burden of the writ petitioner to pay the said loan amount obtained from the Society and Bank. The Society and Bank are permitted to collect the said amount from the writ petitioner in the manner known to law and the 5th respondent has no right to direct the petitioner to submit No Objection Certificate. Admittedly, this petitioner was retired from his service on 30.06.2009 and the proposal for service benefits sent by the 5th respondent authority concerned is pending for more than ten years without any further progress. Since the employee was worked in the 5th respondent school and she was retired from her service on 30.06.2009, without receiving any retirement benefits, how he would run her family, without any

income. This fact was not considered by the 5th respondent and they have not processed the said application till date, which is totally against the principles of natural justice.

11. In the result, I am inclined to pass the following orders:

(a) The Writ Petition is allowed by directing the 5th respondent to process the application for the pension benefits, consequent to the retirement on 30.06.2009 as Secondary Grade Teacher of 5th respondent school and submit the same to the 6th respondent within a period of four weeks thereafter;

(b) On receipt of the said application, the 6th respondent is hereby directed to authorize the payment of pension benefits to the petitioner within a period of eight weeks thereafter.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

1.The Director,
Department of School Education,
Nungambakkam,
Chennai - 600 006.

2.The Joint Director,
Directorate of Elementary Education,
DPI Campus,
College Road,
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Chennai - 6.

3.The District Educational Officer,
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6.The Accountant General (A&E)
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7.The President,
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and aided School Teachers Co-operative Credit and Thrift
Society Limited, 11/6, Mathalangula Main Road,
Mosque (Opp), H.H.453, Tiruvannamalai.

+1 CC to Mr.V.Vijay Shankar Advocate SR.NO.55895

+1 CC to Government Pleader SR.No.56253

+1 CC to Mr.V.Thirupathi, Advocate SR.NO.55627

W.P.No.3291 of 2010

VC (11/11/2017)



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