

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.05.2017

CORAM

THE HONOURABLE MR.JUSTICE R. SUBRAMANIAN

W.P.No.27093/2016 & WMP No.23269/2016

J.Manassay

..Petitioner

..Vs..

1.The Director of School Education,
College Road, Chennai-6.

2.The Director of Pensions,
Directorate Office,
Greams Road, Chennai-6.

3.The District Educational Officer,
The Nilgiris District,
The Nilgiris.

4.The Assistant Educational Officer,
Coodalur,
The Nilgiris District.

5.The Head Master,
Aided Elementary School,
Seaforth Estate,
Seaforth Post, The Nilgiris.

6.The Principal Secretary to Government
School Educational Department,
(Nee.Va.2)
Fort.George, Chennai-9.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in so far relates to the impugned order dated 04.03.2016 passed by the 6th respondent in her letter No.24660/Nee.Va.2(1)/2015 dated 04.03.2016 and quash the same, consequently directing the respondents to sanction the minimum pension to the petitioner from 05.06.1981 to till July 2016 and to sanction the monthly minimum pension from August 2016 onwards to the petitioner.

For Petitioner : Mr.Immanuel Prakasam

For RR-1 to 4 & 6 : Mr.P.Sanjay Gandhi, AGP

For R-5 : No Appearance

ORDER

Heard Mr.Immanuel Prakasam, learned counsel appearing for the petitioner and Mr.P.Sanjay Gandhi, learned Additional Government Pleader appearing for the respondents 1 to 4 and 6.

2. Aggrieved by the said rejection for sanction of minimum Pension, the petitioner is before this Court. Admittedly, the petitioner has

rendered 12 years of service and he has resigned on 01.11.1970. The impugned order of rejection is mainly, based on the fact that the petitioner has resigned from service, after the crucial date, prescribed in G.O.Ms.No.37 dated 05.01.1983.

3. In The Government of Tamil Nadu and another Vs. S.V.Paul Jayaraj reported in (2001) 3 M.L.J.430, the Hon'ble Division Bench of this Court has observed as follows:

" 7. It is therefore clear that a teacher who has resigned even after the crucial dates can be sanctioned pension by the respective authorities competent to sanction pension even without any specific orders from the higher authorities or of the Government condoning the resignation in each individual case. This would clinch the issue in favour of the respondent teacher and we find that the learned single Judge has also relied on the afore mentioned Government Order, G.O.Ms.No.37. This is apart from the fact that even the language of the Government Order dated 05.06.1981 and more particularly of paragraph 6 (ii) cannot be interpreted so as to oust the teachers who have resigned after the introduction of the Pension Scheme. The provision has to be interpreted as giving a concessions even to the persons who have resigned earlier to the institution of the said Pension Scheme. We need not go into that aspect because G.O.Ms.No.37 is more than clear.

Therefore, we confirm the judgment of the learned single Judge. We are told that there is a stay in the matter. We direct the Government to finalise the pension of the respondent teacher within three months from today. ... "

4. The above referred judgment of the Hon'ble Division Bench has been followed in the case of M.Subbiah Vs. The Accountant General and others in W.P(MD)No.14732 of 2013 by the learned Single Judge in his order dated 19.09.2014.

5. In view of the above pronouncements of this Court, the respondents are directed to consider the request of the petitioner as per Clause 4 of G.O.Ms.No.37 dated 05.01.1983 and grant minimum pension to the petitioner from the date of his entitlement. The said exercise shall be completed within a period of 12 weeks from the date of receipt of a copy of this order. There is no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KP

To

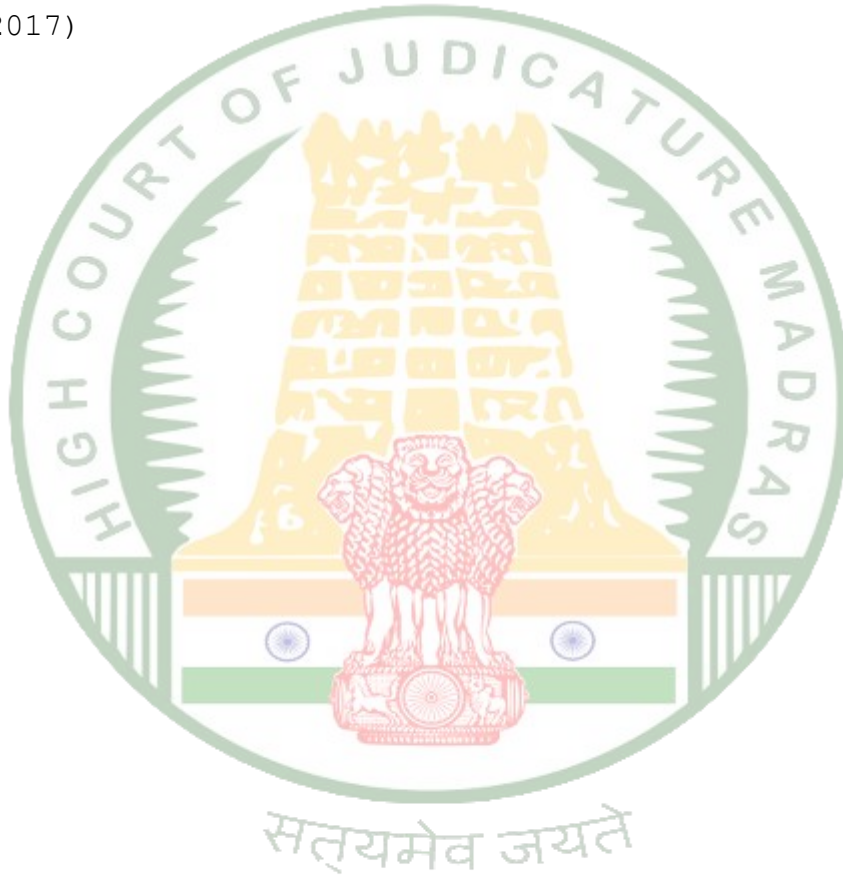
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5.The Principal Secretary to Government
School Educational Department,
(Nee.Va.2)
Fort.George, Chennai-9.

+2cc to Mr.P.Immanuek Prakasam, Advocate, S.R.No.37625

W.P.No.27093/2016

RV(CO)
RS(19/05/2017)



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