



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2017

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .No.11218 of 2017

M.Packiam

.. Petitioner

Vs.

1. The State of Tamil Nadu, Rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai - 600 006.
2. The Principal Accountant General,
(Accounts and Entitlements),
361, Annasalai, Chennai - 600 018.
3. The District Elementary Educational Officer,
Tuticorin, Tuticorin District.
4. The Additional Assistant Elementary
Educational Officer,
Alwarthirunagari @ Thenthiruperai,
Turicorin District.

.. Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the second respondent herein in proceeding Pen23/II/12315071/RN/15-16/F.TN reply, dated 17.07.2015, and to quash the same and to further direct the second respondent herein to pay arrears of pension from 05.06.1981 to till date with interest and to pay monthly pension to the petitioner.

For Petitioner	: Mr.A.Ajith Geethan
For R-2	: Mr.P.Gunasekaran, Standing Counsel.
For R-1,R-3&R-4	: Mr.J.Gunaseelan Muthaiah, Government Advocate.

O R D E R

This Writ petition is filed for issuing a Writ of Certiorified Mandamus, quashing the impugned proceedings issued by the second respondent herein in proceeding Pen23/II/12315071/RN/15-16/F.TN reply, dated 17.07.2015, and to direct the second respondent herein to pay arrears of pension from 05.06.1981 to till date with interest and to pay monthly pension to the petitioner.



2. Mr.P.Gunasekaran, learned Standing Counsel takes notice for the second respondent and Mr.J.Gunaseelan Muthaiah, learned Government Advocate takes notice for the respondent 1,3 and 4.

3. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the second respondent and the learned Government Advocate appearing for the respondents 1,3 and 4. By consent, the Writ petition itself is taken up for final disposal.

4. It is a peculiar case where the petitioner has come to this Court for relief which according to her was payable about 40 years back.

5. The petitioner worked as Higher Grade Teacher from 01.06.1955 to 01.06.1965 in Hindu Elementary School, Kurangani, Turicorin District. After completing ten years of service, the petitioner stated that she resigned from service on 01.06.1965. The petitioner's resignation was accepted and she was allowed to retire on 01.06.1965.

6. It is the case of the petitioner that the State Government has issued **G.O.Ms.No.37, Department of Education Science and Technology, dated 05.01.1983**, stating that a Teacher is entitled to pension, if she resigned from the service. However, she stated that the Government has allowed pension to such persons only from 05.06.1981, as no arrears need to be paid for the period prior to 05.06.1981. On the ground that the petitioner came to know about the said Government Order only in the year 2014, when she received the copy of the order of this Court, dated 19.09.2014 in W.P.(MD) No.14732 of 2013, extending the pensionary benefits to the similarly placed persons, the present Writ petition is filed after this length of time.

7. It was only based on her knowledge, it appears that the petitioner submitted her representation regarding pension proposal to the second respondent, on 20.01.2015 for the first time, based on the Government Order in **G.O.Ms.No.37, Department of Education Science and Technology, dated 05.01.1983**. From the facts narrated in the affidavit filed in support of the Writ petition, it can be inferred that the petitioner is making the said claim after a period of forty five years. The petitioner admittedly resigned from the post on 01.06.1965 and her resignation was accepted. Since she never made any claim either for pension or for other benefits, she was not entitled to any amount at that time. However, the petitioner relied upon **G.O.Ms.No.37, Department of Education Science and Technology, dated 05.01.1983**, stating that the said Government Order confers on her the benefit to claim pension.

8. The learned Government Advocate appearing for the respondents vehemently contended that the said Government Order



relied upon by the petitioner does not confer any right on the petitioner who resigned from service, before the Pension scheme was introduced. He also emphasized that the Government Order was never intended to cover the present claim of the petitioner.

9. However, without going into the merits of the contentions, this Court find that the petitioner is guilty of laches.

10. The learned counsel for the petitioner however relied upon the Judgment of the Hon'ble Supreme Court in the case of **Union of India V. Tarsem Sing**, reported in **(2008) 8 SCC 648**. The said Judgment is not applicable to the facts in the present case where the delay will cause serious prejudice to the contesting respondents. It is practically impossible for any one to dig files relating to the service particulars of the petitioner for the year 1965. Hence, the Writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Department of School Education,
Fort St.George, Chennai - 600 006.
2. The District Elementary Educational Officer,
Tuticorin, Tuticorin District.
3. The Additional Assistant Elementary
Educational Officer,
Alwarthirunagari @ Thenthiruperai,
Tuticorin District.

- + 1 CC TO Mr.A.AJITH GEETHAN, ADVOCATE IN SR No. 60752
- + 1 CC TO Mr.P.GUNASEKARAN, ADVOCATE IN SR No. 60962
- + 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 60798

PMU

TE/MR-KKR/SAR-IV : 16/08/2017 : 3P/7C

ORDER MADE IN
W.P.(MD).No. 11218 of 2017
16.06.2017