



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date: 22.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. (MD)No.864 of 2013

and

M.P (MD) .No.1 of 2013

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Kamatchi@Rajeshwari

.. Appellant/Petitioner

Vs.

1. State of Tamil Nadu,
Represented by its Secretary to the Government,
Department of Educaiton,
Fort St.George, Chennai 9.

2. The Director,
Local Funds Accounts,
Kuralagam, Chennai 104.

3. The Director of School Education,
College Road, Chennai 6.

4. The District Educational Officer,
Usilampatti,
Madurai District.

...Respondents/Respondents

PRAYER: Appeal is filed under Clause 15 of the letters patent, against the order dated 01.04.2008 passed by the learned Single Judge in W.P.(MD)No.1248 of 2008 on the file of this Court.

Prayer in WP(MD). 1248/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandmaus, to call for the records relating to the order passed by the 1st respondent in letter No. 19459/R1/03-02 dated 28/09/2004 and quash the same and to direct the respondents to disburse the family pension from 24/08/1981 and continue to pay to the petitioner.

For Appellant : Mr.S.Rajasekar

For Respondents : Mr.T.S.Mohammed Mohideen
Additional Government Pleader

**JUDGMENT**

[Judgment of the Court was made by **G.R. SWAMINATHAN, J.**]

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The unsuccessful Writ petitioner is on appeal challenging the order dated 01.04.2008 made in W.P(MD).No.1248 of 2008.

2.The appellant's husband Malaichami was appointed temporarily as basic servant in the office of the Deputy Inspector of School, Usilampatti on 28.07.1980. He passed away on 24.06.1981. A sum of Rs.1,00,000/- was disbursed towards his death. Thereafter, several representations were made for payment of family pension. Since the appellant's husband had worked for less than one year i.e. 10 months and 23 days only, the request for grant of family pension was rejected. The appellant continued to make representations. Again she was met with the order of rejection on 28.09.2004. This was challenged by her in W.P.(MD). No.1248 of 2008. But the learned Single Judge dismissed the Writ petition. Aggrieved by the same, this intra Court appeal has been filed.

3. The learned counsel appearing for the appellant contended that as per G.O.Ms.No.967, Finance (Pension) Department, dated 29.08.1989, family pension can be given even when an employee died within one year, provided a Medical Fitness Certificate was produced at the time of joining duty. But this contention cannot be accepted for two reasons. Firstly, the said G.O. was issued only on 29.08.1989. It has no retrospective application in the case of the appellant as the appellant's husband passed away on 24.06.1981. Secondly, the condition as stipulated in the said G.O. i.e the production of Medical Fitness Certificate at the time of joining duty is not fulfilled in the present case. Therefore, the order of rejection passed by the first respondent is correct. No grounds have been made out interfering with the same. The learned Single Judge rightly dismissed the Writ petition.

4.Therefore, this Writ appeal is without any merit and the same stands dismissed. No costs. Consequently connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar



To

1. The Secretary to the Government,
Department of Education,
Fort St. George, Chennai 9.

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2. The Director,
Local Funds Accounts,
Kuralagam, Chennai 104.
3. The Director of School Education,
College Road, Chennai 6.
4. The District Educational Officer,
Usilampatti,
Madurai District.

+1cc to The Spl. Government Pleader sr.No.74299

MSA

VB/SV/MMS/SAR4/22/09/2017/3P/6C

**W.A. (MD) No. 864 of 2013
and
M.P (MD) .No.1 of 2013**

22.08.2017