

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10876 of 2018

Poornima

... Petitioner

Vs.

- 1.The Secretary,
Department of School Education,
Fort St. George,
Secretariate Govt. of Tamil Nadu,
Chennai-09.
- 2.The Director of School Education,
College Road, Nungampakkam,
Chennai.
- 3.The Chief Educational Officer,
Town Hall, Coimbatore.
- 4.The Correspondent,
Pioneer Mills Higher Secondary School,
Jothipuram Post, Coimbatore.
- 5.The Director of Pesion,
259, Anna Salai,
Block 3, II Floor, DMS Compound,
Teynampet, Chennai-06.
- 6.The Accountant General
(Accounts & Entitlement),
Tamil Nadu Office,
361, Anna Salai, Chennai-18.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to direct the respondents to disburse the family pension to the petitioner in terms of the service rendered by K.S.Kumaragurubaran within the time stipulated by this Court.

For Petitioner : Mr.V.Sivakumar

For Respondents : Mr.P.Raja,
Government Advocate

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to disburse the family pension to the petitioner in terms of the service rendered by late Mr.K.S.Kumaragurubaran.

2. The learned counsel appearing on behalf of the writ petitioner states that the petitioner's husband, late Shri K.S.Kumaragurubaran, was employed as a Secondary Grade Teacher in Pioneer Mill Higher Secondary School, Jothipuram Post, Coimbatore.

3. The learned counsel further states that the husband of the writ petitioner had served about 12 years in the said school and resigned his job on 05.02.2008. The petitioner's husband was relieved from the post in proceedings dated 02.04.2008. Thus, the resignation submitted by the husband of the writ petitioner was accepted and he was relieved from the post of Secondary Grade Teacher. Unfortunately, the husband of the writ petitioner passed away on 08.05.2017, after a lapse of about 9 years from the date of resignation. Now the writ petitioner/wife of the deceased employee moved this writ petition seeking family pension on the ground that the employees were granted pension in some other similar cases.

4. The learned Government Advocate appearing on behalf of the respondents states that the husband of the writ petitioner resigned his job in the year 2008 itself and he passed away only in the year 2017, after a lapse of 9 years from the date of resignation and therefore, the case of the writ petitioner cannot be considered for grant of family pension in accordance with Tamil Nadu Pension Rules, 1978.

5. This Court is of an opinion that Rule 23 of the Tamil Nadu Pension Rules, 1978 enumerates forfeiture services of resignation. The Rule states that resignation from a service or post entails forfeiture of past services. Therefore, the deceased employee himself was not eligible for pension and other benefits under the Tamil Nadu Pension Rules. When the deceased employee was not eligible for pensionary benefits under the Tamil Nadu Pension Rules, then the writ petitioner is certainly not entitled for family pension under the Pension Rules. This apart, the learned Government Advocate cited Rule 41 of the Tamil Nadu State and Subordinate Services Rules, which speaks about Consequences of Resignation, which reads as follows:-

"41. Consequences of resignation - A member of a service shall if he resigns his appointment, forfeit not only the service rendered by him in the particular post held by him at the time of resignation but all his previous service under the Government.

The reappointment of such person to any service shall be treated in the same way as a first appointment to such service by direct recruitment and all rules governing such appointment shall apply; and on such reappointment he shall not be entitled to count any portion of his previous service for any benefit or concession admissible under any rule or order: Provided that nothing contained in this rule shall effect the operation of proviso to rule 23 or of rule 25 of the Tamil Nadu Liberalised Pension Rules, 1978: *Provided further that a member of a service, who has resigned his appointment and contested in the General Election to Parliament or State Legislature or in the Elections to local bodies either as a party candidate or as an independent candidate, shall not be eligible for reappointment to any service.

*Substituted in G.O.Ms.No.534, P&AR(P) Dept.
dt. 21.5.1985 w.e.f. 27.8.1984."

6. Thus, the writ petitioner is not entitled for any family pension in accordance with the Tamil Nadu Pension Rules and accordingly, the benefits as such sought for to grant family pension cannot be considered.

7. Accordingly, this writ petition is dismissed. However, there shall be no order as to costs.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

abr/lok

To

1.The Secretary,
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+1 CC to Govt. Pleader sr 32311 & 32792.

+1 CC to Mr.V. Sivakumar, Advocate sr 31839.

W.P.No.10876 of 2018

KAN (CO)

SP(16/05/2018)

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