

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2018

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.9174 of 2014

Rev.Fr.M.Lourdusamy

... Petitioner

Vs

1. The Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.
2. The Director,
State Institute of Education,
Research and Training, DPI Campus,
College Road, Chennai - 600 006.
3. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
4. The Principal,
District Institute of Education,
Research and Training, G.Ariyur,
Villupuram - 605 602. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of proceedings of 2nd respondent herein i.e., Na.Ka.No.7593/E.1/2013 dated 02.12.2013 and quash the same and consequently direct the respondents to take into account the period of service rendered in Recognised (unaided School i.e., from 01.06.1985 to 31.05.1991 for fixation of pay, determination of pension benefits and to disburse pension arrears accordingly.

For Petitioner : Mr.Jeyaratchagan

For Respondents : Mr.D.Raghu
Government Advocate

O R D E R

The relief sought for in the present writ petition is to call for the records in relation to the order of rejection, passed by the 2nd respondent in proceedings dated 02.12.2013 and quash the same and to consequently direct the respondents to take into account, the period of service rendered by the writ petitioner in an unaided school with effect from 01.06.1985 to 31.05.1991, for calculation and grant of pension.

2.The writ petitioner, at the time of filing the writ petition, was aged about 77 years and now, he would be around 81 years. The present writ petition has been filed stating that the writ petitioner was initially appointed as B.T. Assistant in an aided institution. He was remunerated by the school by the financial aids provided by the Government of Tamil Nadu. However, during the period from 31.05.1985 till 31.05.1991, the Department of School Education, Tamil Nadu, had stopped providing grants to the schools for the reasons not known to the writ petitioner. Thus, the school was being run by the management, with its own fund. During that period, the school was qualified as "Recognized (Unaided)" School. Thus, the writ petitioner was not receiving the Government salary during the relevant period of time.

3.The petitioner was reappointed as Headmaster with grants and the said Government Order was passed w.e.f. 01.06.1991. He served as the Head Master in the above said school till 06.07.1993 and was later posted as Principal of Roman Catholic Teachers Training Institute (Aided), Tindivanam and he served there, till 31.05.1996.

4.It is an admitted fact that the writ petitioner served as an aided teacher in St.Antony's Higher Secondary School, Melnariappanur w.e.f. 20.06.1983 till 31.05.1985 (1 year 11 months and 12 days) in the very same school, he served as an unaided teacher, w.e.f. 01.06.1985 till 31.05.1991. Thereafter, grant was provided by the Government and the writ petitioner served in the very same school with grants, w.e.f. 01.06.1991 till 06.07.1993 (2 years 1 month and 6 days). Thereafter, the petitioner had served in Roman Catholic Teachers Training Institute, Tindivanam from 07.07.1993 to 31.05.1996 (2 years 10 months and 25 days). Totally, the petitioner had served as an aided teacher for 6 years 11 months and 13 days. However, pension and pensionary benefits had not been granted to the writ petitioner.

5.The petitioner states that in respect of one Mr.M.Jeyraj, a similarly placed teacher, the Government had considered his case and granted pension and pensionary benefits in G.O.Ms.No.18, Education, Science and Technology (D2) Department, dated 09.01.1997. Thus, the same benefit has to be extended to the writ petitioner also. It is mainly contended that the case of the writ petitioner alone, was discriminated and in respect of his colleague Mr.M.Jeyraj, the benefit of the pension was granted.

6.The learned Government Advocate appearing on behalf of the respondents, disputes the contentions by stating that the writ petitioner had completed the qualifying service of 6 years 11 months and 13 days, as per the Tamil Nadu Pension Rules (hereinafter referred as "the Pension Rules"). The qualifying service of 6 years 11 months and 13 days alone, can be used for the purpose of considering the pension proposal. The minimum services to be rendered for grant of pension as per the Pension Rules is 10 years. Since the petitioner has not rendered 10 years of service, pension has not been granted to the petitioner. Thus, there is no infirmity in respect of the order impugned, passed by the respondents.

7.With reference to the case of Mr.M.Jeyraj, it is stated that G.O.Ms.No.18, Education, Science and Technology (D2) Department, dated 09.01.1997 was issued and subsequently, the said Government Order was withdrawn by the Government, vide G.O.Ms.No.314, School Education (D2) Department, dated 12.12.1999. Thus, the case of the writ petitioner cannot be considered, as per the Government orders cited supra, passed in the case of Mr.M.Jeyraj.

8.Further, it is stated that the period of unaided services in recognised schools, prior to 01.06.1991, is taken only for experience, promotion and the said unaided services prior to 01.06.1991 could not be taken for pay fixation and pension, as per the G.O.Ms.No.314, School Education (D2) Department, dated 12.12.1999. Thus, the unaided services of writ petitioner cannot be taken into consideration for the purpose of pensionary benefits, under the provisions of the Pension Rules.

9.This Court is of an opinion that as per the Pension Rules, the minimum qualifying services for the purpose of grant of pension is 10 years. However, the petitioner had served only for 6 years, 11 months and 13 days, as an aided school teacher, and had not completed the minimum qualifying services of 10 years, so as to consider his case for grant of pension.

10.This apart, the petitioner was allowed to retire from

services on 31.05.1996 and the present writ petition itself, was filed on 25.03.2014, i.e. after a lapse of 18 years from the date of his retirement. Thus, the writ petition is liable to be rejected on the ground of laches. The writ petitioner having served in an aided institution for about 6 years 11 months and 13 days, is not eligible for grant of pension under the Pension Rules. Thus, the claim of the writ petitioner is devoid of merits and moreover, the writ petition itself is filed after a lapse of 18 years.

Thus, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mkn/ssr

To

1. The Secretary to Government,
School Education Department,
Fort St. George,
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+1 cc to The Government Pleader, Sr.No.74297

KAN(CO)
CSL/06.12.208

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