

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.07.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17830 of 2013

and

M.P.No.2 of 2013

Dr.Prema Rufus

..Petitioner

vs

1. The Director of Collegiate Education,
College Road,
Nungambakkam,
Chennai - 600 006.

2. The Joint Director of Collegiate Education,
D.P.I Compound,
Nungambakkam,
Chennai - 600 006.

3. The Regional Joint Director of Collegiate Education,
Trichy Region,
Trichy.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records culminating under the order of the first respondent dated 29.11.2006 made in 2K No.44948/F.3/2006 and quash the same and consequently direct the first and second respondents to sanction pension within a time frame by verification of records on the qualifying service rendered by the petitioner from 28.06.1962 - 13.06.1985 with interest at the rate of 18% per annum.

For Petitioner : M/s.G.Thilakavathi
Senior Counsel for Mr.R.Gopinath

For Respondent : Mr.K.Karthikeyan,
Government Advocate

O R D E R

The order of rejection dated 29.11.2006 issued by the first respondent in respect of the claim of the petitioner for grant of pension under the Tamil Nadu Pension Rules, 1978 is under challenge in this writ petition.

2. The learned Senior Counsel appearing on behalf of the writ petitioner made a submission that after completing under-graduation, the writ petitioner was recruited as a Demonstrator in an aided college i.e., Lady Doak College at Madurai and before pursuing her higher studies and after completion of her post-graduation, the petitioner continued in service in various colleges. Though there was a break in service which occurred on account of her marriage, the petitioner was recruited to Government Arts College in Thanjavur in 1970. Subsequently, she was appointed in another aided college at Madurai and she continued her service in the Government aided college. The petitioner served as a Professor and Head of the Department at the Tranquabar Bishop Manickam Lutheran College, Porayar in Mayiladuthurai and on account of her domestic problems, the petitioner opted to resign her job. The service particulars of the writ petitioner has been detailed as below.

Sl. No.	College Served	Designation	Duration	Remarks
1.	Lady Doak College Madurai (Aided College)	Demonstrator in Chemistry	28.06.1962 to 31.03.1963 (1 year)	Studied M.A. English Literature for 2 years and joined as Asst. Professor of English in S.R. College, Trichy.
2.	S.R.College Trichy (Aided College).	Asst. Professor of English	02.08.1965 to 21.06.1969 (4 years)	
3.	Sarfoj Govt. Arts College, Tanjore.		30.11.70 to 02.04.71	Joined private aided college

Sl. No.	College Served	Designation	Duration	Remarks
4.	Fathima College for Women, Madurai (Aided College).	Asst. Professor of English	20.08.1971 to 15.06.1972 (1 year.) Joined Private Aided College	
5.	T.B.M.L. College Porayar, Mayiladuthurai (Aided College)	Professor of English & Head of the Department	16.06.1972 to 13.06.1985 (13 years)	Joined in the Higher cadre as Professor and Head of the Dept. of English.
6.	C.T.T.E. College for Women at Perambur, Chennai (Self financing College).	Principal.	14.06.1985 to 30.04.2002 (17 years)	Joined in the Higher Cadre as Principal, C.T.T.E. College for Women.

3. The present writ petition has been filed seeking pension on the ground that the petitioner had already served about 13 years in Government aided college and 17 years in unaided college.

4. The learned Senior Counsel relying on the service rendered by the petitioner in the Government aided college that is for about 13 years, claims that the petitioner is entitled for pension under the Tamil Nadu Pension Rules, 1978. Qualifying service for grant of pension under Tamil Nadu Pension Rules is ten years of service and the petitioner had served for about 13 years and therefore the benefit of pension cannot be denied to the writ petitioner.

5. The learned Government Advocate opposed the contention raised on behalf of the writ petitioner by stating that the writ petitioner resigned her job on 14.06.1985 itself from the Government aided institution and her resignation was accepted. Thereafter, the petitioner joined in a self-financed college and therefore, the service rendered by the petitioner after her resignation may not have any relevance in respect of grant of pension under the Tamil Nadu Pension Rules. Though the petitioner has submitted resignation on 14.06.1985, the present writ petition was filed on 19.06.2013 after a lapse of about 28

years. The petitioner filed the present writ petition after her retirement from the self-financed college on 30.04.2002.

6. Even considering the facts and circumstances of the present case, this Court is of an opinion that the petitioner served as a Professor in Government aided college till 14.06.1985 and on that day she submitted her resignation and relieved from duty. Thereafter, the petitioner served in a self-financed college till 30.04.2002. However, the present writ petition was filed on 19.06.2013 even after a lapse of 10 years from the date of her retirement. Even at the time of filing of the writ petition, the writ petitioner was aged about 71 years. Thus, the petitioner has not pursued the remedy prudently and within the reasonable period of time. The writ petitioner was serving as a Professor and Head of the Department and thereafter as the Principal of the College. Therefore, she cannot plead any ignorance in respect of the Tamil Nadu Pension Rules, 1978 or otherwise. Rule 23 of the Tamil Nadu Pension Rules, 1978 reads as under.

'23. Forfeiture of service on resignation--(1) Resignation from a service or post entails forfeiture of past service:

Provided that a resignation shall not entail forfeiture of past service if it has been submitted to take up with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies.

(2) Interruption in service in a case falling under the proviso to sub-rule(1), due to the two appointments being at different stations, not exceeding the joining time permissible under the rules of transfer, shall be covered by grant of leave of any kind due to the Government servant on the date of relief or by formal condonation to the extent to which the period is not covered by leave due to the Government servant.

7. As per the rule cited supra, resignation amounts to forfeiture of past service rendered. The writ petitioner resigned her job in the year 1985 and therefore, she is not entitled to claim the benefit of the past service rendered by her in Government aided college and accordingly, the claim made out in the writ petition is devoid of merits. Even otherwise also, the writ petitioner resigned her job in the year 1985 and thereafter served in self-financed college till 30.04.2002 and filed the present writ petition on 19.06.2013 and there is an enormous delay even in filing the present writ petition.

8. Thus, in all circumstances, the writ petitioner has not made out any acceptable legal grounds for the purpose of considering the case of the writ petitioner. Accordingly, the writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

lok/msrm

To

1. The Director of Collegiate Education,
College Road,
Nungambakkam,
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Chennai - 600 006.
3. The Regional Joint Director of Collegiate Education,
Trichy Region,
Trichy.

+1cc to Mr.R.Gopinath, Advocate, S.R.No.46301
+1cc to the Government Pleader, S.R.No.46150

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