



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.03.2018

WEB COPY

CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P. (MD) .No.2849 of 2015

Pattammal

... Petitioner

Vs.

1. The Principal Accountant General
(Accounts and Entitlements) Tamil Nadu,
361, Anna Salai,
Chennai - 18.

2. Government of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Secretariat,
Chennai.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the first respondent in Pr.AG(A&E)/Legal Cell/WP(MD)1143 of 2009/2013/198545 dated 20.02.2013 and to quash the same and directing the respondents to sanction the pensionary benefits to the petitioner from the date of retirement taking into account her entire period of service with the Matriculation Higher Secondary school from 06.06.1984 to 22.11.1989 and Government schools from 24.11.1999 to 31.05.2007.

For Petitioner : Mr.V.Kannan
For R-1 : Mr.P.Gunasekaran,
Standing Counsel.

For R-2 : Mr.J.Gunaseelan Muthaiah,
Additional Government Pleader.

O R D E R

The petitioner was employed as a Post Graduate Tamil teacher in an unaided matriculation school from 06.06.1984 to 22.11.1999. Subsequently, she got appointment in a Government school. She retired on reaching the age of superannuation on 30.04.2007. The petitioner wants the service put in by her in the unaided matriculation school to be counted for the purpose of pension. The said request was rejected by the impugned order dated 20.02.2013. The same is assailed in this Writ petition.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The learned counsel appearing for the Writ petitioner



contended that the case on hand is no longer *res integra* and that it is covered by two decisions of this Court reported in (2013) 5 M.L.J.427 (*S.Veerabadran V. Government of Tamil Nadu*) and (2017) 1 Writ L.R.89 (*L.Gurunathan V. The Director of School Education, Chennai -6 and others*).

WEB COPY

3. But as rightly pointed out by Mr.P.Gunasekaran, learned Standing counsel for the first respondent, both these decisions proceeded on the basis of G.O.Ms.No.143 Education Department dated 30.01.1987. It has been authoritatively found by a learned Judge of this Court that this Government Order is a nonexistent Government Order and a bogus one. The case on hand is on the other hand covered by the decision of the Hon'ble Division Bench of this Court reported in (2006) 4 M.L.J.1580 (*S.Devakadaksham V. District Educational Officer*) and the unreported order of this Court dated 16.08.2012 in W.P.(MD)No.4494 of 2009 (*V.Mariappan Vs. The Secretary to Government, School Education Department, Chennai and others*).

4. The learned counsel for the petitioner heavily relied on the Judgment of the Hon'ble Division Bench of this Court made in W.A.Nos.291 and 292 of 2008 dated on 26.06.2008. The same has been dealt with in W.P.(MD)No.4494 of 2009, dated 16.08.2012 (*V.Mariappan Vs. The Secretary to Government, School Education Department, Chennai and others*) in the following terms:-

" 19. The petitioner heavily relied on G.O.Ms.No.18 and Division Bench Judgment dated 26.06.2008 in W.A.Nos.291 and 292 of 2008. The arguments advanced by the learned counsel for the petitioner looks attractive. But on deeper scrutiny, it has no merit.

20. As rightly contended by the learned Additional Government Pleader, the Division Bench, in its Judgment in W.A.Nos.291 and 292 of 2008, took into account G.O.Ms. No.143, which was a bogus one. Furthermore, the Judgment of the Division Bench in *S.DEVAKADAKSHAM's* case (cited supra) was not brought to the notice of the Division Bench which heard the writ appeals in W.A.Nos.291 and 292 of 2008. The Judgment *S.DEVAKADAKSHAM's* case (cited supra) disposed a batch of writ appeals and the Division Bench considered extensively the provisions of Tamil Nadu Recognised Private Schools (Regulation) Act 1973 and has recorded a finding that the service rendered in a non-sanctioned post could not be counted for the purpose of pension and pay fixation. All the Teachers, who were granted benefit based on G.O.Ms.No.18, faced recovery proceedings, based on G.O.Ms.No.314, referred to above. The action based on G.O.Ms.No.314 was upheld by the Division Bench in its Judgment in



WEB COPY

S.DEVAKADAKSHAM's case (cited supra). However, two cases escaped from the net and writ appeals preferred by those two Teachers in W.A.Nos.291 and 292 of 2008 alone were allowed on the sole ground that they were discriminated in the matter of counting the service rendered in the non-sanctioned post, based on the benefit given to a teacher in terms of G.O.Ms.No.18.

21. As stated above, the Judgment of the Division Bench in S.DEVAKADAKSHAM's case (cited supra) rendered in a batch of cases, was not brought to the notice of the later Division Bench. The Division Bench categorically held that the action of the Government in withdrawing G.O.Ms.No.18, in G.O.Ms.No.314, is perfectly in order. It is made clear that the person, who rendered service in non-sanctioned post, could not claim to count the same for the purpose of pay fixation and pension. Hence, I am of the view that the reliance placed on by the petitioner on G.O.Ms.No.18 and Division Bench Judgment in W.A.Nos.291 and 292 of 2008 are of no use, in view of the Judgment of the Division Bench in S.DEVAKADAKSHAM's case (cited supra)."

5. In view of the same, this Court finds no merit in this Writ petition. The Writ petition stands dismissed, accordingly. No costs.

Sd/

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar (CS-III)

To

1. The Principal Accountant General
(Accounts and Entitlements) Tamil Nadu,
361, Anna Salai, Chennai - 18.

2. The Secretary,
Department of School Education,
Secretariat,
Chennai.

+1cc to Mr.V.Kannan, Advocate, SR.No.52790

+1cc to M/s.Special Government Pleader, SR.No.53592

W.P. (MD) .No.2849 of 2015
05.03.2018