



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.07.2018

CORAM:

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.15708 of 2018

S.Mehrun

...Petitioner

Vs.

- 1.The State of Tamil Nadu
rep. by its Secretary to Government
School Education Department,
Fort St. George
Chennai - 600 009.
2. The Director of Elementary School Education,
College Road,
DPI Complex,
Chennai - 600 006.
3. The District Elementary Education Officer,
Usilampatti, Madurai.
4. The District Elementary Education Officer,
Ramanathapuram.
5. The Block Educational Officer, (AEEO),
Chellampatti,
Sindhu Patti Post,
Madurai District - 625 529.
6. The Head Master
Panchayat Union Middle School,
K.Chempatti
Sindhu Patti Post,
Madurai District - 625 529.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to pass orders on the representation dated 20.12.2016 and to issue T.P.F. Number treating the petitioner comes under the Old Pension Scheme and the General Provident Fund who joined the Service on 15.10.1997 and count the past service rendered for the purpose of Pensionary benefits.

For Petitioner
For Respondents

: Mr.M.Md.Ibrahim Ali
: Mrs.S.Srimathy,
Special Government Pleader

ORDER

The prayer sought for in this Writ Petition is for a Writ of Mandamus, to direct the respondents to pass orders on the representation dated 20.12.2016 and to issue T.P.F. Number treating the petitioner comes under the Old Pension Scheme and the General Provident Fund who joined the Service on 15.10.1997 and count the past service rendered for the purpose of Pensionary benefits.

2. Heard Mr.M.Md.Ibrahim Ali, learned Counsel appearing for the petitioner, Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents.

3. It is the grievance of the petitioner that the petitioner was originally working in an aided School from 1997 and thereafter, after having served for some years, in the year 2004 she joined in the Government School service by appointment dated 13.10.2004 issued by the District Educational Officer, Madurai and has been continuously working, as such. In the year 2003, the new Contributory Pension Scheme has been introduced by the Government and in so far as the employees, who had been working prior to the new Pension Scheme in a pensionable service, resigned the job and take up another post in the State Government after 01.04.2003, they shall be permitted to continue the old Pension Scheme and not the new Contributory Pension Scheme. In this regard, though a clarification has been issued by the Government on 13.04.2006, the petitioner has not been inducted into the old Pension Scheme and therefore, the petitioner has made a request by way of representation dated 20.12.2016 to the 3rd respondent along with copy marked to the 5th respondent also.

4. However, the said representation has been returned on 30.12.2006, by the 3rd respondent stating that the proposal should be routed through the 5th respondent. However, the fact remains that the proposal with advance copy has already been sent to the 5th respondent and therefore, the said reasoning given for returning the proposal may not be reasonable. Hence, the petitioner seeks for a Mandamus, to consider her representation dated 20.12.2016, which is already pending with the 5th respondent, who in turn has to forward the same to the 3rd respondent for appropriate action.

5. I have heard Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents, who would submit that, since the said representation of the petitioner dated 20.12.2016 has already been marked to the 5th respondent also, the said reason given by the 3rd respondent for returning the proposal may not be justifiable and therefore, the representation of the petitioner shall be considered after getting necessary forwarding letter from the 5th respondent with his comments and such decision would be taken within the time frame that may be stipulated by this Court.



6. Considering the said submissions made by the learned Counsel appearing for both sides and taking into account the factual situation of the case, this Court is inclined to pass the following order:-

"that the respondents especially 5th respondent is directed to forward the petitioner's request dated 20.12.2016 with his comments to the 3rd respondent for taking appropriate decision, within a period of two weeks from the date of receipt of a copy of this order and thereafter, on receipt of the same from the 5th respondent, the 3rd respondent shall consider the request of the petitioner dated 20.12.2016 with regard to her grievance of permitting her to join in the old Pension Scheme prior to 2004 by treating the service of the petitioner continues as pensionable service i.e. prior to 2004 and also by taking into account the clarification issued by the Secretary to Government, Finance (Pension) Department, dated 13th April 2006 in letter No.92399/Pension/2005-1, and pass orders thereon, within a period of six weeks thereafter."

7. With these directions, this writ petition is disposed of. No costs.

Sd/

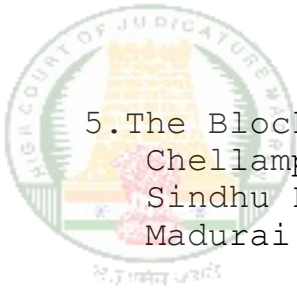
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Secretary to Government,
State of Tamil Nadu
School Education Department,
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K.Chempatti
Sindhu Patti Post,
Madurai District - 625 529.

+1 cc to Mr.Mohamed Ibrahim Ali,SR.No.73874
+1 cc to Spl.Govt.Pleader,SR.No.74121

rm
SS/PM/SAR 3/13.12.2018/4P/9C

W.P. (MD) No.15708 of 2018
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