

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATE: 24.01.2018

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**W. P. (MD) No.382 of 2011****and****M.P. (MD) No.1 of 2011**

Rose Ani Sundar

... Petitioner

-Vs-

1. The Secretary to Government,
Higher Education,
Secretariat, Chennai.
2. The Director of College Education,
College Road, Chennai-6.

(R2 cause title amended as per Court
order dated 06.12.2013 in M.P. (MD) .No.2 of 2011)

3. The Joint Director of College Education,
Tirunelveli.
4. The Accountant General,
Anna Salai, Chennai.
5. The Secretary,
Nesamani Memorial Christian College,
Marthandam, Kanyakumari District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents to sanction the family pension of the petitioner from 04.01.2004 onwards for her full life time and the interest on the accrued amount of pension due to late J.K.Sundhar from 13.03.1984 to 30.01.2004 within the stipulated time that may be fixed by this Court.

For Petitioner : Mr.R.Manimaran

For R-1 to R-3 : Mr.R.Sethuraman
Special Government Pleader

For R-4 : Mr.P.Gunasekaran

For R-5 : No appearance

O R D E R

The relief sought for in this writ petition is for a direction to the respondents to sanction family pension to the petitioner from 04.01.2004 onwards.

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2. The petitioner in the affidavit filed in support of the writ petition has stated that Mr.J.K.Sundar, husband of the writ petitioner joined as Junior Assistant in the 5th respondent College on 01.07.1968. On account of his ill health, the husband of the writ petitioner resigned his job and he was relieved from service on 29.03.1984 itself.

3. The learned counsel appearing for the respondents has stated that the resignation amounts to forfeiture of pension under the Pension Rule. Rule 23 is clear in this regard. Thus, the family pension cannot be granted. This apart, the husband of the writ petitioner resigned the job on 29.03.1984 and the writ petition itself was filed on 06.06.2011 after a lapse of about 27 years.

4. This being the factum of the case, this Court cannot consider the case of the writ petitioner for granting family pension. This apart, the scope of Rule 23 and 23(1) is adjudicated by the Hon'ble Division Bench of this Court in the case of **A.I.Agnel Ilangovan vs. Government of Tamil Nadu represented by its Secretary to Government, Finance, Chennai** reported in **2016 (3) MLJ 839**. The Division Bench of this Court has categorically held that the employees submitted resignation and if the same is accepted by the employer, then they cannot claim any pension or family pension and the resignation amounts to forfeiture of pension.

5. In view of the fact that the husband of the writ petitioner resigned his job in the year 1984 itself. Now after a lapse of so many years, the claim of the petitioner for family pension cannot be considered and further, there is no provision in the Pension Rules for granting of pension in respect of resigned employees. Accordingly, the writ petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Higher Education,
Secretariat, Chennai.



2. The Director of College Education,
College Road, Chennai-6.

3. The Joint Director of College Education,
Tirunelveli.

4. The Accountant General,
Anna Salai, Chennai.

+1cc to Mr.R.Manimaran, Advocate Sr.No.44493

+1cc to Spl.Government Pleader Sr.No.44333,44172

+1cc to Mr.P.Gunasekaran, Advocate Sr.No.44248

AKV

VB/KKR/SAR2/20.02.2018/3P/8C

W.P. (MD) No.382 of 2011
24.01.2018