

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.04.2019

C O R A M

The Honourable Mr.Justice SENTHILKUMAR RAMAMOORTHY

Writ Petition No.12970 of 2006

&

WPMP.No.82 of 2012

V.R.Lakshmanan

...Petitioner

Vs

1.State of Tamil Nadu rep. By its
Secretary, Education Department,
Fort St. George,
Chennai-600 009.

2.The District Educational Officer,
Devakottai Post,
Sivagangai District.

3.The Accountant General,
Teynampet, Chennai-600 018.

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the 1st Respondent in G.O.Ms.No.1108 Personnel and Administrative Reforms (FR III) Department, dated 18.12.1987 as unconstitutional and consequently direct the Respondent to extend the benefits to the Petitioner.

For Petitioner : Mr.D.Arul for
M/s.A.R.Nixon

For Respondents : Mrs.V.Annalakshmi,
Government Advocate for R1 & R2
M/s.T.S.Selvarani for R3

O R D E R

This Writ Petition has been filed for a Writ of Certiorari cum Mandamus to call for the records relating to the order passed by the first Respondent in G.O.Ms.No.1108 of the Personnel Administrative Reforms (F.R.III) Department dated

18.12.1987 and to quash the same in so far as it specifies the cut off date as 18.12.1987.

2.The case of the Petitioner is that he is a retired pensioner and that he was working as a Headmaster in Special Grade at the Ramasamy Chettiar Memorial High School, Natarajapuram. The Petitioner rendered unblemished service to the first Respondent for 29 years 3 months and 21 days and opted for voluntary retirement on 31.10.1985. At the time of retirement, the Petitioner was drawing a salary of Rs.9100-275-14050.

3.According to the Petitioner, the pension was fixed based on the basic pay of Rs.9100/- and that, contrary to applicable rules, no weightage was granted to the Petitioner at the time of his retirement. The Petitioner further stated that based on G.O.Ms.No.1108 Personnel and Administrative Reforms (FR III) Department, the Petitioner sent a representation dated 31.12.2005 (which is contained in Page No.3 of the typed set of papers) whereby he requested that the weightage of four years should be extended to him and that the cut off date of 18.12.1987 should not be applied. He further stated that this representation was rejected by reply dated 09.03.2006 on the basis that, as per the rules, the relaxation requested for by the Petitioner cannot be granted.

4.At the hearing today, the learned counsel for the Petitioner reiterated the submissions set out in the affidavit and pointed out that his representation dated 31.12.2005 was unfairly rejected, in spite of the Petitioner's unblemished record of service of 29 years, 3 months and 21 days. Accordingly, he contended that the impugned order is liable to be quashed and that he is entitled to the benefit of the said Government Order.

5.In response, the learned counsel for the third Respondent pointed out that the relevant G.O.Ms.No.1108 is dated 18.12.1987, whereas the representation was submitted by the Petitioner on 31.12.2005. In addition, he drew reference to Para-5 of the counter affidavit wherein it is stated that the Petitioner made a claim 18 years after the date of the issuance of the G.O. He further referred to para-7 of the counter affidavit wherein the judgment of the Hon'ble Supreme Court in the case of Secretary Finance Department and others v. West Bengal Registration Service Association and Others (1993 Supp(1) SCC 153), is cited and it is stated that the cut off date is a policy decision of the executive and it may not be appropriate for the Court to interfere with such decisions.

6.The affidavit, counter affidavit, documents on record and the submissions of both sides have been carefully considered.

7.From the documents on record, it is abundantly clear that the relevant G.O.Ms.No.1108 was issued on 18.12.1987 and extends certain benefits to persons to whom it applies. In the instant case, it is an admitted fact that the Petitioner took voluntary retirement on 31.10.1985, which pre-dates the issuance of the relevant G.O. It is also an admitted fact that the representation was submitted by the Petitioner on 31.12.2005, i.e. more than 20 years after his retirement. As correctly contended by the learned counsel for the third Respondent, the fixation of a cut-off date is a policy decision and it should not be interfered with by this Court especially in the exercise of supervisory jurisdiction. In addition, the Petitioner is disentitled from claiming this discretionary remedy on account of laches. Accordingly, this writ petition is liable to be dismissed.

8.In the result, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-
Deputy Registrar(C.S)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary
Education Department,
Fort St. George,
Chennai-600 009.

2.The District Educational Officer,
Devakottai Post,
Sivagangai District.

3.The Accountant General,
Teynampet, Chennai-600 018.

+1cc to Mr.A.R.Nixon, Advocate, S.R.No.33827
+1cc to the Government Pleader, S.R.No.34241

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VG-I (CO)

RRS (31/05/2019)