

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.A. No. 1307 of 2019

P. Leelavathy ... Appellant/Petitioner

-vs-

1. The Director of School Education,
Chennai - 600 006.
2. The Chief Educational Officer,
Erode,
Erode District.
3. The District Educational Officer,
Erode,
Erode District.
4. The Correspondent,
Kalaimagal Kalvi Nilayam Girls High School,
Erode,
Erode District.
5. The Secretary to the Government of Tamil Nadu,
School Education Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
6. The Accountant General (A&E) of Tamil Nadu,
AG's Office Complex
No. 361, Anna Salai,
Teynampet,
Chennai - 600 018. ... Respondents/Respondents
(R5 and R6 are impleaded vide Court
order dated 24.04.2019)

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent,
praying to set aside the order dated 10.12.2018 made in W.P. No.

8421 of 2006 and allow the present Writ Appeal, directing the Respondents to sanction pension.

Prayer in WP.8421/2006:

Writ 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 in O.Mu.No.12721/Aa 4/2001 dated 13.06.2002 passed by the third respondent and quash the same and consequently direct the respondents to sanction pension and settle all the consequential benefits including arrears of pension to the petitioner.

For Appellant : Mr. P. Ganesan

For Respondents: Mr. C. Munusamy,
Special Government Pleader
(for R1 to R5)

Mr. V. Vijayashankar (for R6)

J U D G M E N T

(Judgment of the Court was delivered by P.D. AUDIKESAVALU, J.)

The intra-Court Appeal arises out of the order dated 10.12.2018 in W.P. No. 8421 of 2006 passed by the Learned Judge of this Court.

2. We have heard Mr. P. Ganesan, Learned Counsel appearing for the Appellant, Mr. C. Munusamy, Learned Special Government Pleader appearing on behalf of the First to Fifth Respondents and Mr. V. Vijayashankar, Learned Counsel appearing for the Sixth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

3. The Learned Judge, who heard the Writ Petition, by a self-explanatory order dated 10.12.2018, has held as follows:-

"The grievances of the Writ Petitioner is that the services rendered by the Writ Petitioner in between the years 1963 to 1978 in an aided school had not been counted for the purpose of calculating qualifying services for grant of pension with reference to the Pension Rules in force.

2. The Learned Counsel for the Petitioner states that the Petitioner is eligible for treating the period as qualifying service. However, the internal communication shared between the District Educational Officer, Erode and the school states that the Writ Petitioner was relieved from the service on 08.06.1978 on account of the letter of resignation submitted by the Writ Petitioner.

3. Thus, the Writ Petitioner is not entitled for the counting of service as per the Pension Rules in force. Since the resignation amounts to forfeiture of services. However, if any grievances exist as of now, it is for the petitioner to approach the competent authorities for the purpose of redressing the same. In the event of submitting any such representation the same shall be considered on merits and in accord with law.

4. With these observations, the Writ Petition stands dismissed. No costs."

We do not find any infirmity to interfere with the order passed by the Writ Court and we confirm the same.

4. The Learned Counsel for the Appellant, however, submits that availing the liberty granted by the Writ Court, the Appellant has now made a representation dated 24.04.2019 to the Fifth Respondent, viz., the Principal Secretary to the Government of Tamil Nadu, School Education Department (who has been impleaded by order dated 24.04.2019 in C.M.P. No. 9700 of 2019) for relaxing the rules for grant of pension to the Appellant under Rule 82 of the Tamil Nadu Pension Rules, 1978, and has produced a copy of the same. The Learned Counsel represents that the Appellant would be satisfied if this Court issues a direction to the Fifth Respondent to consider and pass orders on the aforesaid representation dated 24.04.2019 made by the Appellant within a reasonable time that may be fixed by this Court.

5. Accordingly, without expressing any view on the correctness or entitlement of the claim made, we direct the Fifth Respondent, viz., the Principal Secretary to the Government of Tamil Nadu, School Education Department to consider the representation dated 24.04.2019 made by the Appellant for relaxation of the relevant rules for grant of pension taking into account any undue hardship that may have been suffered by her, and after affording full opportunity of personal hearing, pass reasoned orders on merits and in accordance with law in the exercise of powers under Rule 82 of the Tamil Nadu Pension

Rules, 1978, and communicate the decision taken to the Appellant, the Sixth Respondent and all other authorities, as required, by 16.08.2019. In order to expedite the matter, we also permit the Appellant to submit another copy of the representation along with a copy of this order enclosing materials in support of her claim to the Fifth Respondent by 15.06.2019.

6. The Writ Appeal is disposed of on the aforesaid terms. No costs.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

To

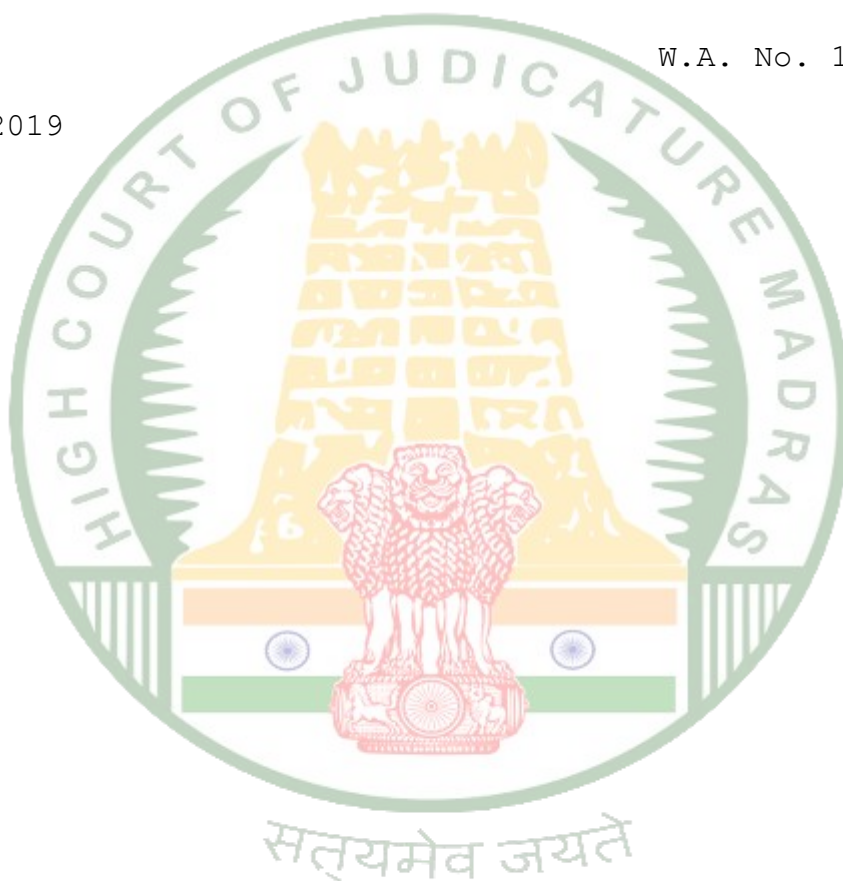
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+1cc to M/s.C.S.Associates, Advocate sr.39810
+1cc to The Government Pleader sr.39926
+1cc to Mr. V. Vijayashankar, Advocate sr.40136

W.A. No. 1307 of 2019

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