

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.09.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No. 27204 of 2019

and

W.M.P.Nos. 26605 & 26606 of 2019

G.Mery Remela

..Petitioner

Vs

1. The Director of Elementary Education,
College Road, Chennai - 6.

2. The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

3. The District Elementary Educational Officer,
Nagercoil,
Kanyakumari District

4. The Assistant Elementary Educational Officer,
Nagercoil,
Kanyakumari District.

5. The Correspondent, Home Church Primary school,
Nagercoil-1,
Kanyakumari District

6. The Headmaster,
Government High School,
Aralperumalpuram,
Aralvaymozhi,
Kanyakumari District.

7. The Accounts General,
No.361, Annasalai,
Teynampet, Chennai - 18.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ order or direction in the nature of writ of Certiorarified Mandamus, calling for the records relating to 7th respondent letter in No.P11/1/11126056/ADK dated 10.06.2019 and quash the same, consequently direct the 7th respondent to sanction the regular pension to the petitioner by counting the service from 13.07.1995 to 31.05.2015 and pay the arrears of pension from 13.07.1995 to till date.

For Petitioner : Mr.K.Sathishkumar
For Respondents : Mr.C.Munusamy
Special Government Pleader.

O R D E R

The prayer sought for in this Writ Petition is for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to 7th respondent letter in No.P11/1/11126056/ADK dated 10.06.2019 and quash the same, consequently direct the 7th respondent to sanction the regular pension to the petitioner by counting the service from 13.07.1995 to 31.05.2015 and pay the arrears of pension from 13.07.1995 to till date.

2. The case of the petitioner is that the petitioner was appointed as a Secondary Grade Teacher on 13.07.1995. The 5th respondent school is getting Aid from the Government. The petitioner's appointment is sent for approval by the 5th respondent and the same was rejected by the third respondent in his proceedings No. 3667/A/75 dated 12.12.1995 by relying the G.O.Ms.No. 559, Secondary Educational Department, dated 11.07.1995.

3. The petitioner filed a Writ Petition before this Court in W.P.No. 5650 of 2000 challenging the G.O.Ms.No. 559 and consequential rejection order. This Court disposed the said writ petition by its order dated 29.06.2001, holding that G.O.Ms.NO. 559 is valid. However, the petitioner's appointment was protected from 13.07.1995.

4. On the date of petitioner's appointment on 13.07.1995, there is no surplus post. The 5th respondent again sought for petitioner's approval, before the 3rd respondent. Again the 3rd respondent rejected the same on 07.12.2001, because of surplus post.

5. The petitioner filed writ petition in W.P.No. 881 of 2002 and the same was allowed by order dated 17.09.2009. During the pendency of writ petition, subsequently she was selected and appointed as B.T.Assistant at Government High School, RL Perumalpuram/6th respondent herein with effect from 08.10.2007 and she was retired from service on 31.05.2015. The petitioner was brought under Contributory Pension Scheme. Her earlier service was also protected by this Court's order in W.P.No. 5650 of 2000, which Judgment is reported in 2004 (2) law weekly 591. The 3rd respondent complied with the order passed in W.P.No. 881 of 2002 by granting all the arrears of salary and also with regard to service rendered as a Secondary Grade Teacher during the period from 13.07.1995 to 27.06.2005.

6. The petitioner was not given a regular pension and she was paid a sum of Rs.5,86,218/- from the Contributory pension scheme. Therefore she made a request to the respondent on 23.01.2019 for sanctioning the regular pension after adjusting the Government contribution of a sum of Rs.2,13,036/-. On receipt of the same, the 7th respondent refused to sanction the same through letter No.P11/1/11126056/ADK dated 10.06.2019. The said rejection order is impugned in this writ petition.

7. A Perusal of the entire typed set of documents filed in support of this writ petition shows that for the representation sent by the petitioner dated 23.01.2019, she has received reply by way of impugned order dated 10.06.2019 stating that her substitute service should be added in the Contributory Pension Scheme only. Further, it is seen that the petitioner retired from service on 31.05.2015. Therefore, the petitioner has made a representation after four years, stating that she is entitled for regularisation from the years 1995 to 2017, is unsustainable one and thus, the same has rightly been rejected by 5th respondent.

8. In view of the above reasonings, the writ petition stands dismissed. No costs. consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

kmm

To

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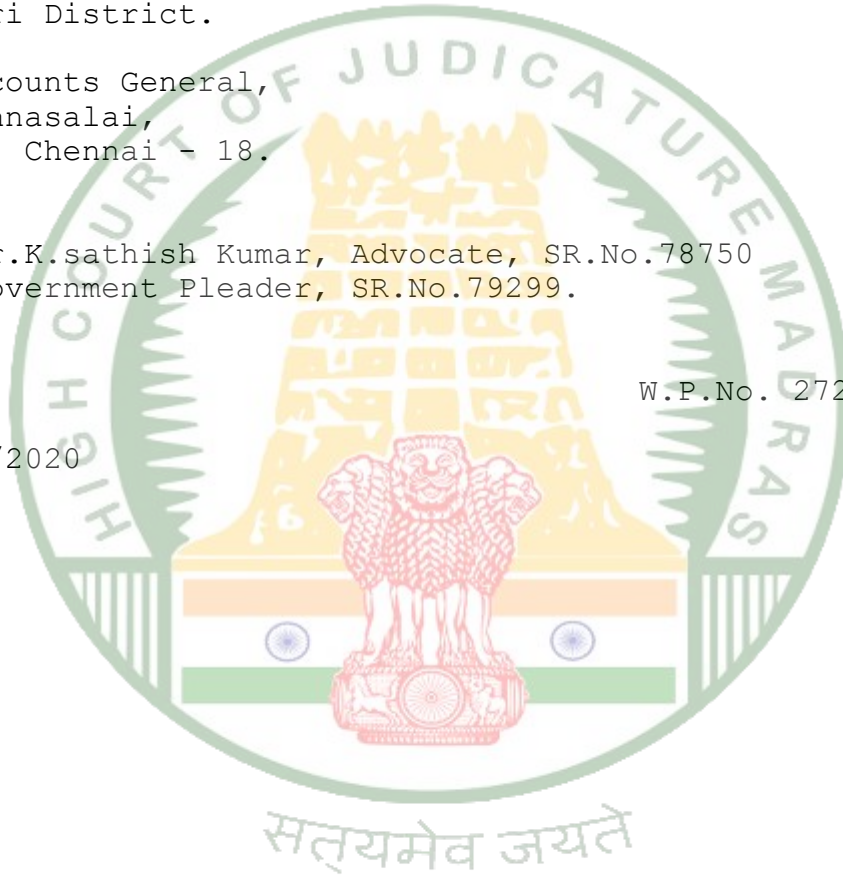
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Teynampet, Chennai - 18.

+1cc to Mr.K.sathish Kumar, Advocate, SR.No.78750
+1cc to Government Pleader, SR.No.79299.

SR(CO)
CSR:21/01/2020

W.P.No. 27204 of 2019



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