



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. (MD) No.5973 of 2014

WEB COPY

Joisy Vimala

... Petitioner

vs.

1.The Director of School Education
Chennai

2.The District Education Officer
District Education, Tirunelveli

3.The Correspondent
Sarah Tucker Higher Secondary School
Tirunelveli

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records of the second respondent in Na.Ka.No.2750/A5/2012 dated 20.09.2012 and quash the same and further direct the respondents herein to pay back the difference in pay which was collected from petitioner for the period between 04.10.1978 and 25.04.1987.

For Petitioner : Mr.S.Meenakshi Sundaram, Senior Counsel
for Mr.N.Ga.Natraj

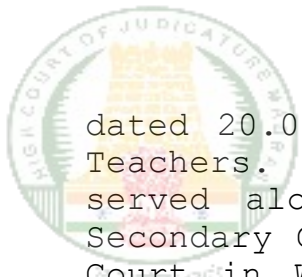
For Respondents : Mrs.S.Srimathy
Special Government Pleader for R1 & R2

No appearance for R3

O R D E R

The order of rejection, dated 20.09.2012, passed by the second respondent, rejecting the claim of the writ petitioner to extend the benefit of the Secondary Grade Teachers' pay to her on par with the colleague Ms.T.Jemima, is under challenge in the present writ petition.

2. The writ petitioner joined in the third respondent's School as a Nursery Trained Assistant on 04.10.1978. The writ petitioner was fully qualified for appointment to the post of Secondary Grade Teacher and subsequently, she was appointed as Secondary Grade Teacher and retired from service on 31.03.2007. The claim of the writ petitioner is that she was drawing salary as Secondary Grade Teacher. The Government issued G.O.(Ms) No.564,



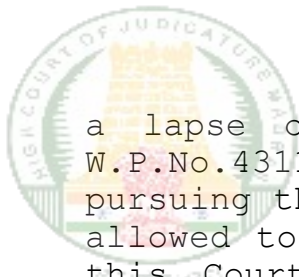
dated 20.03.1978 and decided to abolish the cadre of Higher Grade Teachers. It is contended that the colleague Ms.T.Jemima, who served along with the writ petitioner, was sanctioned with the Secondary Grade Teachers' pay pursuant to the orders passed by this Court in W.P.No.4311 of 1994, dated 04.10.1999. Thus, the writ petitioner also claims that the Judgment rendered in favour of Ms.T.Jemima in W.P.No.4311 of 1994, dated 04.10.1999, is to be extended to her.

3. The learned Senior Counsel appearing on behalf of the writ petitioner contended that the rights of the writ petitioner cannot be denied when the colleague, who served along with the writ petitioner, got the benefit of the scale of pay of Secondary Grade Teachers and such benefit is to be extended to the writ petitioner in spite of the fact that she is entitled for the same.

4. The learned Special Government Pleader appearing on behalf of the respondents 1 and 2 made a submission that the claim of the writ petitioner cannot be accepted on par with her colleague Ms.T.Jemima. In this regard, in Paragraph No.6 of the counter affidavit filed by the second respondent, it is stated as follows:

"6. It is submitted that the 2nd respondent passed orders in his RC.No.2750/B5/2012 dated 20.09.12 to the effect the claim of the petitioner, who retired from service on 31.03.2007 to grant secondary grade scale of pay to her like Tmt.T.Jemima is not acceptable. It is submitted that at the relevant period viz. 04.10.1978 to 24.04.1987 she held only Nursery Trained Certificate and she was not a Secondary Grade Teacher. Moreover, the claim is now made after an elapse of 27 years from 24.04.1987 and that too after 7 years of her retirement from service on 31.03.2007. Her claim is highly belated and cannot be entertained at all, at this distant of time."

5. The fact remains that the writ petitioner retired from service on 31.03.2007. The colleague of the writ petitioner Ms.T.Jemima filed a writ petition in the year 1994 and this Court passed an order on 04.10.1999 and the State preferred an appeal in W.A.No.1805 of 2000 and the Honourable Division Bench of this Court decided the appeal on 07.09.2007 dismissing the writ appeal. Thus, the case of Ms.T.Jemima cannot be raised as a ground for the purpose of extending the benefit of Secondary Grade Teachers' pay to the writ petitioner, now after a lapse of many years. The claim of the writ petitioner pertains to the year 1986. The writ petitioner accepted the service conditions and retired from service on 31.03.2007. The representation claiming the benefit on par with Ms.T.Jemima itself was given by the writ petitioner on 13.06.2012, after a lapse of 26 years from the date of cause of action and after



a lapse of 13 years from the date of the Judgment passed in W.P.No.4311 of 1994. Thus, there was an enormous delay even in pursuing the remedy by the writ petitioner. The writ petitioner was allowed to retire from service and now, she is a pensioner. Thus, this Court is not inclined to entertain the claim of the writ petitioner, after a lapse of so many years.

6. An employee, who served as a Teacher, cannot plead any ignorance of law. The service rights or its violations are to be agitated within a reasonable time. It is not as if an employee can claim the service benefits, after a lapse of so many years and by comparing with the other colleagues. In this regard, an employee, who slept over his / her rights in respect of the service conditions, cannot wake up one fine morning and knock at the doors of the Court for the redressal of the grievances. Such a stale claim cannot be entertained so as to provide monetary benefits, after retirement. This being the principles to be followed, this Court is not inclined to interfere with the order impugned in the present writ petition.

7. Accordingly, the writ petition stands dismissed on the ground of laches. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To:

1.The Director of School Education,
Chennai.

2.The District Education Officer,
District Education, Tirunelveli.

+1 CC to SPL GP SR-82408.

+1 CC to Mr.N.GA.NATRAJ, Advocate SR-8236.

W.P. (MD) No.5973 of 2014
19.08.2019

CS(29.08.2019) 3P 5C