



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2019

CORAM:

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.9637 of 2015
and
M.P.(MD) Nos.1 & 2 of 2015

S.Vijaya Kumar

... Petitioner

vs.

1.The Accountant General,
Office of the Accountant General,
No.261, Anna Salai,
Chennai.

2.The Director of School Education,
College Road,
Chennai.

3.The District Educational Officer,
District Educational Office,
Virudhunagar District.

4.The Assistant Elementary Educational Officer,
Assistant Elementary Education Office,
Narikudi Union, Narikudi,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records pertaining to the Impugned order in 102(RTI)/A2/2014, dated 21.08.2014 on the file of the respondent No.3 and quash the same as illegal and consequently direct the respondent to provide with the benefit of old pension scheme to the petitioner as per the Government letter No.43459/Finance (Pension)/08-1 dated 31.07.2008.



For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.P.Gunasekaran for R1

Mrs.S.Srimathy

Special Government Pleader for R2 to R4

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O R D E R

The order dated 21.08.2014, issued by the third respondent is sought to be quashed. Further direction is sought for to direct the respondents to provide the benefit of old pension scheme to the writ petitioner as per the Government Letter dated 31.07.2008.

2. The learned counsel appearing for the writ petitioner states that the pension has already been granted to the writ petitioner under the old pension scheme and the period of service rendered by the writ petitioner in the Police Department was also taken into account for the purpose of reckoning the qualifying period of service for fixation of pension and grant of pensionary benefits. However, in the impugned order, the District Educational Officer sought for certain particulars from the writ petitioner, after granting the benefits in favour of the writ petitioner.

3. This Court is of the considered opinion that if at all such verification or clarification is to be done, the District Educational Officer is empowered to verify the files and take appropriate action. In the event of issuing notice, the writ petitioner is also at liberty to establish that he secured employment by properly obtaining permission from the competent authority and his appointment to the new Department falls within the ambit of the proviso clause to Rule 23 of the Tamil Nadu Pension Rules, 1978. In the event of establishing that the new appointment was secured by the writ petitioner by obtaining proper permission from the competent authority, then undoubtedly, his case is to be considered with reference to the proviso clause to Rule 23 of the Tamil Nadu Pension Rules, 1978. In such an event, he would be entitled for all the benefits in respect of the services rendered by him in the Police Department prior to his joining the Educational Department. This being the factum, the writ petitioner is at liberty to submit a fresh explanation / representation setting out all the facts along with the documents, if any available, to the third respondent and if any such representation is submitted by the writ petitioner, it is left open to the third respondent to consider the same and take appropriate decision in this regard as expeditiously as possible.



4. With these observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar(CS)

To:

1.The Director of School Education,
College Road, Chennai.

2.The District Educational Officer,
District Educational Office,
Virudhunagar District.

3.The Assistant Elementary Educational Officer,
Assistant Elementary Education Office,
Narikudi Union, Narikudi,
Virudhunagar District.

4.The Accountant General,
Office of the Accountant General,
No.261, Anna Salai,
Chennai.

+1 CC to Mr.T.LAJAPATHI ROY, Advocate SR-75633.

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CS (22.07.2019) 3P 6C