



WEB COPY

W.A.(MD) No.645 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **24.08.2020**
CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.A. (MD) No.645 of 2020

A.Shanthakumari Natchathira Jeyamani ... Appellant/Petitioner

-Vs-

1.The Government of Tamil Nadu,
Rep by its Secretary,
School Education Department,
Fort St., George, Chennai-600 009.

2.The Director of School Education,
DPI Compound, Nungambakkam,
College Road, Chennai-600 006.

3.The Accountant General,
Chennai.

4.The District Educational Officer,
Thoothukudi District,
Thoothukudi.

5.The Correspondent,
TDTA, PSP Higher Secondary School,
Pudukottai,
Thoothukudi.

... Respondents/Respondents

Prayer: Writ Appeal - filed under Section 15 of the Letters Patent Act, to set aside the order passed by this Court in W.P.(MD)No.20612 of 2018 dated 28.09.2018.

Prayer W.P.(MD)No.20612 of 2018: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the records relating to the impugned order in O.Mu.No.2828/A3/16, dated 19.7.2016 of the fourth respondent and to quash the same and consequently direct the respondents 1 to 4 to sanction the minimum pension to the Petitioner in the light of G.O.Ms(4D) No.10, dated 3.11.2009.



For Appellant : Mr.V.Karthikeyan
For R1, R2 & R4 : Mrs.S.Srimathy,
Special Government Pleader
For R3 : Mr.P.Gunasekaran
For R5 : No Appearance

WEB COPY

ORDER

[Order of the Court was made by **M. SATHYANARAYANAN, J.,**]

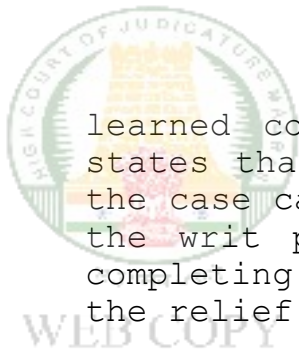
By consent of both parties, this writ appeal is taken up for final disposal and it is disposed of by this order.

2. The appellant / writ petitioner was appointed as P.G.Assistant (English) on 25.10.1979 in the services of the fifth respondent School. According to the petitioner, she was discharging her duties to the utmost satisfaction to her superiors and after putting 9 years 11 months 27 days of service, she resigned the said post due to personal reasons. It was also accepted by the respondents 4 and 5 and she was relieved from service on 21.10.1989 AN. Her last drawn pay was Rs.2,300/-. The appellant / writ petitioner after her resignation struggles for her livelihood and day to day needs. She came across G.O.Ms.(4D)No.10 of the first respondent dated 03.11.2009 in an by which, one Mrs.Lilly Grace Rajammal, who has also rendered 11 years 3 months of service in an aided school, resigned, was sympathetically considered for pensionary benefits and the said order came to be passed and however, it has been made clear that it cannot be cited as a precedent and the pension is payable from the date of issuance of the said Government Order.

3. The representation made on behalf of the petitioner in this regard, came to be rejected by the fourth respondent vide proceedings, dated 19.07.2016 and making challenge to the same, she filed writ petition, which also came to be dismissed vide order, dated 28.09.2018. The writ petitioner / appellant aggrieved by the dismissal of the writ petition and filed the present writ appeal.

4. The learned counsel for the appellant / writ petitioner would submit that the first respondent being an administrative department has to abide by Article 14 of the Constitution of India and though in respect of one Mrs.Lilly Grace Rajammal, who is also a similarly placed person as that of the appellant / writ petitioner, granted exemption, Section 12(A) of the Pension Rules relating to Non-Governmental Educational Institutions have not been granted, despite the fact that the petitioner is aged about 65 years and also suffering due to Nemological Neuro disease and prays for appropriate orders.

5. Per contra, the learned counsel appearing for the respondent would submit that since the Government Order relied on by the



learned counsel for the appellant / writ petitioner specifically states that it came to be passed in the facts and circumstances of the case cannot be cited as a precedent and it would not come to aid the writ petitioner and admittedly, she had resigned even before completing 10 years of service and as such she is not entitled to the relief and prays for dismissal of this writ appeal.

6. I have carefully considered the rival submissions and perused the materials on record carefully.

7. A perusal of the impugned order dismissing the writ petition, which is the subject matter of a challenge in this appeal, would read that the learned Judge has invoked Rule 23 of the Tamil Nadu Pension Rules, 1978 to deny the relief to the appellant / writ petitioner. In the considered opinion of this Court relying upon the said Rule is unsustainable for the reason that there is a separate Rule governing the pensionary benefits payable to the Teachers employed in Non-Government Aided Institutions, namely the Tamil Nadu Non-Governmental Teachers Pension Rules. The first respondent while considering the case of Mrs.Lilly Grace Rajammal has relaxed 12(A) of the said Rule and granted the pensionary benefits to her payable from the date of issuance of G.O.Ms.(4D) No.10, dated 03.11.2009.

8. It is also pertinent to note at this juncture that this Court come across very many Government Orders passed by the first respondent Department for particular individuals granting exemption / conferring certain benefits citing reasons that the said orders are passed in the facts and circumstances relating to the individual and relying upon these kind of orders, very many Teachers had filed writ petitions and got the relief and the first respondent on their own volition had opened the flood gate, which resulted into filing of very many litigations and on account of non compliance of the orders passed in cases, litigants, alleging non compliance filed very many contempt petitions which in turn, led into unnecessary docket explosion. It is high time that the first respondent, in order to avoid these kind of unnecessary litigations, shall formulate the Laws and Rules relating to School Education and this Court hopes and trusts that such an endeavour will be taken by the first respondent.

9. In the light of the fact that Rule 23 of the Tamil Nadu Education Rules has no application to the case on hand and only the Tamil Nadu Non Governmental Teachers Pension Rules have application, this Court is of the considered opinion that the reasons assigned in the impugned order are unsustainable. In the result, this writ appeal is **partly allowed** and the impugned order, dated 28.09.2018 made in W.P.(MD)No.20612 of 2018 as well as the impugned order dated 19.07.2016 in O.Mu.No.2828/A3/16 passed by the fourth respondent, are set aside and it is once again remanded to the fourth



respondent, who should once again have a re-look into the matter objectively and also take into consideration the plight of the appellant / writ petitioner especially on account of her illness and send proposals / recommendations through proper channel to the first respondent within a period of eight weeks from the date receipt of the copy of this order and the first respondent upon receipt of the same, shall consider the said proposal and pass appropriate orders in accordance with law as expeditiously as possible not later than ten weeks, thereafter and communicate the decision taken to the appellant / writ petitioner. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

ta

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary,
School Education Department,
Fort St., George, Chennai-600 009.
- 2.The Director of School Education,
DPI Compound, Nungambakkam,
College Road, Chennai-600 006.
- 3.The Accountant General,
Chennai.
- 4.The Assistant Executive Engineer, (Enforcement),
Tamil Nadu Electricity Board, Rura,
Trichy- 620 020.

Order made in

W.A.(MD) No.645 of 2020

24.08.2020

CS(18.09.2020) 4P 5C