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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2020

CORAM
THE HONOURABLE MR.JUSTICE **C.SARAVANAN**
W.P(MD)No.6356 of 2020
and
W.M.P.(MD)Nos.5593 and 5594 of 2020

C.Marymuthukumari ... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by its Chief Secretary
to Government,
Personnel and Administrative Reforms (S)
Department,
Secretariat, Chennai -9.

2.The State of Tamil Nadu,
represented by its Chief Secretary to Government,
School Education Department,
Secretariat, Chennai -9.

3.The Commissioner of School Education,
Office of the Commissioner of School Education
Department,
College Road, Chennai -6.

4.The Director of School Education,
Office of the School Education Department,
College Road, Chennai -6.

5.The Chief Educational Officer,
Office of the Chief Educational Officer,
Virudhunagar, Virudhunagar District. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the first respondent in his proceedings in G.O.Ms.No.51, Personnel and Administrative Reforms (S) Department, dated 07.05.2020, insofar as it restricts to those who are in regular service as on date and due to retire on superannuation from 31.05.2020 and consequential impugned order passed by the first respondent in his proceedings in Letter No.11308/S/2020-1, dated 14.05.2020 and quash the same as illegal and consequently, to direct the respondents to extend the

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retirement age of the petitioner from 58 years to 59 years in terms of the G.O.Ms.No.51, Personnel and Administrative Reforms (S) Department, dated 07.05.2020.

For Petitioner :Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For Respondents :Mr.S.Srimathy
Special Government Pleader

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O R D E R

When the matter is taken up for hearing, the learned Counsel for the petitioner fairly conceded that the issue is now squarely covered against the petitioner, as this Court has dismissed a connected Writ Petition in W.P.(MD)No.6576 of 2020, by an order dated 09.06.2020. The relevant paragraph of the order is extracted hereunder:

> *"19. On very similar facts, Hon'ble Supreme Court of India* ***in Chandra Mohan Varma Vs. State of Uttar Pradesh & Others, 2020(2) Scale 251*** *had held as follows:*
>
> ***1.*** *A Division Bench of the High Court of Judicature at Allahabad dismissed, by its judgment dated 2 February 2018, a Writ Petition instituted by the appellant under Article 226 of the Constitution. By his petition,* ***the appellant sought a mandamus for his continuance in service*** *as Professor and Head of the Department of Cardiology of the LPS Institute of Cardiology in GSVM Medical College, Kanpur until he attained the age of 65.* ***He claimed this relief on the basis of a notification dated 6 February 2015*** *of the Government of Uttar Pradesh extending the age of retirement from 60 to 65 years.* ***The appellant had before the issuance of the above government notification attained the age of superannuation of 60 years on 13 August 2014.*** *But, in terms of a Government decision ("GO") dated 19 November 2012,* ***he had been granted a `session benefit' of an extension of service up to 30 June 2015.*** *Based on this extension, the appellant's case is that he is entitled to the extension in the age of retirement which has been brought about by the notification dated 6 February 2015. This claim has been repelled by the judgment and order of the Allahabad High Court which is questioned in appeal.*

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8. On 6 August 2014, an order was issued by the Director General, Medical Education & Training, on an application moved by the appellant on 31 May 2014 granting the benefit of an extension of service until the end of the session subject to the fulfillment of the conditions stipulated in the GO dated 19 November 2012. Apprehending that his services would be discontinued on 30 June 2015 at the conclusion of the academic session, the appellant instituted a Writ Petition before the Allahabad High Court seeking to interdict his retirement before he attained the age of 65.

....

18. The date on which the employee attains the age of superannuation is prescribed by the Fundamental Rules. *The decision which was communicated by the State Government on 19 November 2012 does not alter the date of superannuation or retirement. However,* ***what the decision effectuates is to allow the continuance of the employee, after retirement, upon the attainment of the age of superannuation with the salient purpose of preventing a disruption in education instruction prior to the end of the academic session.*** *This view is fortified by the fact that the continuance of the employee until the end of the session is subject to the fulfillment of conditions stipulated, as noticed above.*

19. The determination of the age of retirement is a matter of executive policy. The appellant attained the age of superannuation prior to the notification dated 6 February 2015 and was not entitled to the benefit of the enhancement of the age of retirement.

....

23. *The issue in* ***Civil Appeal Nos.6667-6668 of 2019 (Dr.Profesor Rajendra Chaudhary Vs. State of Uttar Pradesh)*** *was distinct from the central point in this case.* ***In the present case the issue is whether the appellant who had already attained the age of superannuation under the prevailing rules and was continuing until the end of the session would be entitled to the benefit of the enhancement of the age of retirement under the notification dated 6 February 2015.*** *The decision in Dr Rajendra Chaudhary (referred supra) is hence distinguishable.*

24. *For the reasons that we have indicated,* ***we hold that the appellant who attained the age of 60 years - the age of retirement which prevailed at the relevant time was not entitled to the benefit of the***

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notification dated 6 February 2015. The appellant was continuing until the end of the session (30 June 2015) after retirement, in terms of the decision dated 19 November 2012. He was not entitled to the enhanced age of retirement of 65 years. *The terminal benefits which are due to the appellant shall be accordingly computed and released within a period of two months from the date of receipt of a certified copy of this order. For the reasons which we have indicated, we have come to the conclusion that there is no merit in the appeals. The appeals shall stand dismissed. There shall be no order as to costs.*

20. The said Judgement is directly binding on this Court. The petitioner is similarly not entitled to the benefit under ***G.O. Ms.No.51 Personnel and Administrative Reforms (S) Department, dated 7.5.2020.***

21. Therefore, for all the reasons as stated above the relief sought for by all the writ petitioners' are rejected. Accordingly, ***these writ petitions stand dismissed*** *with following direction:*

(i) ***A direction is issued*** *to the first respondent/Government* ***to process the pension papers and pay the pensionary and retirement benefits to the petitioner as applicable, on or before 31.07.2020.*** *If there is any delay, the petitioner would be entitled to seek that appropriate interest be levied.*

22. These Writ Petitions are dismissed. No Costs. Consequently, connected miscellaneous petitions are closed."

2.In the light of the above, this Writ Petition is also dismissed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Cmr

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To

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The State of Tamil Nadu,
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