



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2020

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.11487 of 2020

M.Velvizhi

...Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented by the Secretary to Government,
School Education Department,
Secretariat, Chennai.

2.The Accountant General,
DMS, Nandanam, Chennai.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the first respondent to enroll the petitioner in General Provident Fund Scheme by considering the petitioner's representation dated 14.08.2020 within the time stipulated by this Court.

For Petitioner: Mr.S.Louis

For R1 : Mr.A.Thiyagarajan,
Government Advocate.

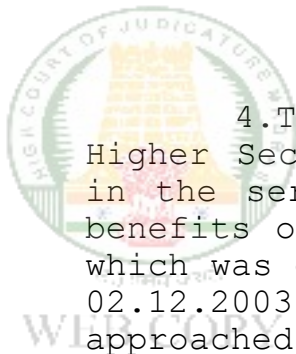
For R2 : Ms.S.Mahalakshmi,
Standing Counsel.

ORDER

The prayer sought for herein is for a Writ of Mandamus, directing the first respondent to enroll the petitioner in General Provident Fund Scheme, by considering the petitioner's representation dated 14.08.2020, within the time stipulated by this Court.

2.Heard Mr.S.Louis, learned counsel appearing for the petitioner, Mr.A.Thiyagarajan, learned Government Advocate and Ms.S.Mahalakshmi, learned Standing Counsel, who take notice for the respondents 1 and 2 respectively.

3.With the consent of the learned counsel on both sides, this Writ Petition is taken up for final hearing and disposed of at the admission stage itself.



4.The petitioner is a P.G. Teacher working in Government Higher Secondary School, Kottur, Theni District. She is appointed in the service prior to 2003. Therefore, she is entitled to the benefits of old pension scheme i.e., General Provident Fund Scheme, which was eligible for those who was selected and appointed prior to 02.12.2003 and in this regard, similarly placed persons have already approached this Court, where the Division Bench of this Court in W.A.(MD)No.1026 of 2019 in the matter of R.Kalpna Vs. The State of Tamil Nadu, Represented by its Secretary and another, has passed an order to the following effect:-

"7.The learned counsel places reliance on the decisions of the High Court of Delhi in the case of **INSPECTOR RAJENDRA SINGH 7 ORS. VS. UOI & ORS.**, in **W.P(C). 2810/2016**, dated **27.03.2017** and the decision in **TANAKA RAM AND ORS. VS. UNION OF INDIA AND ORS.**, in **W.P(C).No.6680 of 2017**, dated **12.02.2019**. The reliance is also placed in the decision of the Division Bench of this Court in the case of **V.VASANTHI VS. STATE OF TAMIL NADU**, reported in **2019(4) CTC 865**.

8.In our considered view, the respondents should have taken a specific stand as regards the contention raised by the appellant atleast by filing a counter affidavit in the writ petition. Had the respondents taken a decision on the representation dated 16.07.20014, the need for the appellant to approach the Writ Court would not have been there. In any event, this matter needs to be decided by the first respondent by passing a speaking order and while doing so, the contention advanced by the appellant before us, which we have been recorded in the preceding paragraph have also to be taken note of.

9.For the above reasons, this Writ Appeal is allowed and the order passed in the writ petition is set aside and the writ petition stands disposed of by directing the first respondent to consider the petitioner's representation, dated 16.07.2014 and pass a speaking order on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order. The appellant is directed to forward the copy of the representation along with the copy of this judgment to the first respondent through proper channel. No costs."

5.Therefore, the learned counsel appearing for the petitioner would submit that in this regard, the representation given by the petitioner to the respondents dated 14.08.2020 and also further representation dated 05.09.2020 can be directed to be considered, on merits and in accordance with law, within a time frame, in that case, the petitioner would be satisfied.



6. In view of the limited scope of the prayer sought for herein, after hearing both sides, this Court is inclined to pass the following order:-

"that the representation of the petitioner dated 14.08.2020 followed by another representation dated 05.09.2020 shall be considered by the respondents on merits and in accordance with law and necessary orders to that effect shall be passed, within a period of twelve (12) weeks from the date of receipt of a copy of this order."

7. With this direction, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Myr

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 to Government,
State of Tamil Nadu,
School Education Department,
Secretariat, Chennai.

2. The Accountant General,
DMS, Nandanam, Chennai.

+1 CC to M/s.S. LOUIS, Advocate (SR-16786[F] dated
14/09/2020)

Order made in
W.P. (MD) No.11487 of 2020

11.09.2020

SS (CO)

NR (02/11/2020) 3P : 4C

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