



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.2244 of 2015

and

M.P (MD)No.1 of 2015

WEB COPY

N.Avudaiammal

... Petitioner

Vs.

1.The Accountant General (A&E),
Office of the Accountant General
No.361, Anna Salai,
Chennai - 18.

2.The Secretary to Government,
Social Welfare Department,
Fort St.George,
Chennai - 600 009.

3.The Director,
Employee Provident Fund Organization,
N.G.O. 'B' Colony,
Perumalpuram,
Tirunelveli.

4.The Director,
Pension Payment Directorate,
No.259, Annasalai, Block - 3, II Floor,
DMS Compound,
Teynampet,
Chennai - 6.

5.The Child Development Project Officer,
Child Development Project Office,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the impugned order passed by the 5th respondent in Na.Ka.No.585/2014, dated 24.11.2014 and consequently, directing the respondents to pay arrears of pension from 01.11.1985 to till date with interest and subsequent monthly pension besides gratuity and provident fund payable to the petitioner.

For Petitioner	:	Mr.T.Selvan
For Respondent-1	:	Mr.P.Gunasekaran
For Respondents (R2, R4 & R5)	:	Mr.S.Dhayalan Government Advocate
For Respondent-3	:	Mr.K.Murali Shankar



ORDER

The order dated 24.11.2014, is sought to be quashed in the present Writ Petition.

2. The claim of the Writ Petitioner is to settle the terminal and pensionary benefits. The petitioner was appointed as Part-time temporary Child Welfare Assistant. Thus, she is not even entitled for pension, under the Tamil Nadu Pension Rules. The petitioner was not appointed on permanent basis. The petitioner without any intimation or permission from the officials remained absent. Therefore, she was terminated from service.

3. This Court is of the considered opinion that the petitioner was not a permanent employee. She was not appointed as a permanent employee and her services were not regularized. Petitioner was working as Temporary Child Welfare Assistant and while working as Part-time Child Welfare Assistant, she was terminated from service, on account of the fact that she remained unauthorizedly absent from 01.04.2000 onwards.

4. The petitioner has not challenged the order of termination till today. Contrarily, she has filed the present Writ Petition seeking for a direction to settle the terminal and pensionary benefits and arrears of pension. When the petitioner is not in a permanent service, she is not entitled to get any pension under the Tamil Nadu Pension Rules. When she is not the Member of the General Provident Fund, pension cannot be considered under the Pension Rules. This apart, even as per the Rule 21 of Tamil Nadu Pension Rules, dismissal or removal amounts to forfeiture of services. Thus, in any angle, the petitioner has not established that she was serving in a pensionable service and she is entitled for pension and other benefits. However, it is made clear that if any salary dues or other benefits are pending, the same is to be paid to the petitioner by the respondents. The petitioner is also at liberty to approach the Authority in this regard, if any salary due is to be paid.

5. With these observations, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (RTI)

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/ /2020

Sub Assistant Registrar(CS)



To

- 1.The Accountant General (A&E),
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+1 CC to M/s.K.MURALI SANKAR, Advocate (SR-23819[F] dated
03/12/2020)

+1 CC to M/s.GP (SR-23896[F] dated 03/12/2020)

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