

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

CORAM :

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P. RAJAMANICKAM

W.A.No.1671 of 2018
and
C.M.P.Nos.13422 & 13423 of 2018

- 1.The Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.
 - 2.The Director of School Education,
College Road,
Chennai.
 - 3.The Chief Education Officer,
Thiruvallur,
Thiruvallur District.
 - 4.The Head Master,
Government High School,
Kattur - 601 603
Thiruvallur District.
- Appellants

A.Jayanthi

... Respondent

Prayer:- Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 19.06.2015 made in W.P.No.17481 of 2015.

Prayer in W.P.No.17481 of 2015 :

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus to call for the records in pursuant to the impugned letter issued by the first respondent in Letter No.1877/Ni.Va.I(2)/2015-2, dated 08.04.2015, and quash the same and consequently direct the respondents to grant pension and all pensionary benefits to the petitioner for the total services of 15 Years, 3 months and 12 days rendered by her under the Tamil Nadu Pension Rules, 1978 from the date of her retirement on 31.03.2010 within a stipulated period.

For Appellants : Mr.C.Munusamy
Special Government Pleader
(Education)

For Respondent : Mr.R.Prem Narayanan

J U D G M E N T

(Judgment was delivered by M. SATHYANARAYANAN, J.)

By consent of both sides, the Writ Appeal is taken up for final disposal.

2.The respondent is the writ petitioner in W.P.No.17481 of 2015 and she has filed the said writ petition contending among other things that she was originally appointed as "Noon Meal Organiser" by the P.A. to District Collector, on 29.01.1983, on consolidated basis, and she was working in Municipality School in Cuddalore, continuously on consolidated pay. She would further aver that the Teachers Recruitment Board, in terms of G.O.(D) No.145, Education (Q2) Department, dated 05.06.2006, conducted a Special Recruitment Test for B.Ed. qualified Graduates, and since she is qualified, she participated in the said test and came out successful and got her appointment as Tamil Pandit in the 4th respondent school therein, and she continued to work in the said Department till she retired on superannuation on 31.03.2010.

3.The grievance expressed by the petitioner is that she worked as "Noon Meal Organiser" from 29.01.1983 to 05.09.2006, and half of the service of 11 years rendered has to be taken up into account for grant of pension under Tamil Nadu Pension Rules, and since her request has not been considered, she came forward to file the said writ petition.

4.The writ petition was entertained. The learned Single Judge has taken note of the rule position as well as the earlier decisions and has allowed the writ petition quashing the impugned order, in and by which, her request was negatived, with consequential direction directing the respondent to count half of the past service rendered by the writ petitioner under Noon Meal Scheme along with regular services as Teacher for pension, and also stipulated an outer time limit to comply with the order. The official respondents, challenging the legality of the said order, have filed the present Writ Appeal.

5.Mr.C.Munusamy, learned Special Government Pleader (Education), appearing on behalf of the appellants, would submit that, in the light of the ratio laid down by the Full Bench of this Court in Government of Tamil Nadu v. R.Kaliyamoorthy [2019 (6) CTC 705], the impugned order passed in the writ petition is to be set aside and the writ appeal is to be allowed.

6.Per contra, Mr.R.Prem Narayanan, learned counsel appearing for the respondent/writ petitioner, would submit that the learned Single Judge has correctly applied the rule position as well as the earlier decisions rendered by this Court and rightly reached a conclusion to award the relief sought for by the writ petitioner and it cannot be faulted with, and prays for dismissal of this writ appeal.

7.This Court has carefully considered the rival submissions and also perused the materials placed before it.

8.The reference put before the Full Bench of this Court is "Whether half of the past service rendered by Government servants whose appointments were regularised after 1.4.2003 can be counted for the purpose of grant of Pension under the provisions of the Tamil Nadu Pension Rules, 1978 in the light of the amendments to the aforesaid Rules vide G.O.Ms. No.259, Finance (Pension) Department, dated 6.8.2003 and G.O.Ms. No.41, Finance (Pension) Department, dated 8.2.2010".

9.The Full Bench has answered the reference as follows :
"45.In the light of the above, we answer the reference as follows:

(i) Those, who are freshly appointed on or after 1.4.2003 are not entitled to Pension in view of Proviso to Rule 2 of Tamil Nadu Pension Rules, 1978 inserted by G.O.Ms. No.259, dated 6.8.2003.

(ii) Those Government servants/Employees appointed prior to 1.4.2003 whether on Temporary or Permanent basis in terms of Rule 10(a)(i) of Tamil Nadu State and Subordinate Service Rules will be entitled to get Pension as per the Tamil Nadu Pension Rules, 1978.

(iii) In case, a Government Employee/servant had also rendered service in Non-Provincialised service, or on Consolidated pay or on Honorarium or Daily Wage basis and if such services were regularised before 1.4.2003, half of such service rendered shall be counted for the purpose of conferment of Pensionary benefits.

(iv) Those Government servants, who were appointed in the aforesaid four categories before the cut off date and later appointed under Rule 10(a)(i) of Tamil Nadu State and Subordinate Service

Rules before 1.4.2003 and absorbed into Regular

service after 1.4.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for Pension.

(v) Those Government servants, who were appointed in the aforesaid four categories before 1.4.2003 but were absorbed in Regular service after 1.4.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for Pension."

10. Admittedly, the writ petitioner came to be appointed as Tamil Pandit during the year 2006, which is well after the cut-off date, i.e. 01.04.2003, and in the light of the same, the writ petitioner is not entitled to the said relief.

11. In the result, this Writ Appeal is allowed and the order, dated 19.06.2015, made in W.P.No.17481 of 2015, is set aside, and consequently, the writ petition in W.P.No.17481 of 2015 is dismissed. However, considering the facts and circumstances of the case, there shall be no order as to costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

mkn

To

1. The Secretary to Government,
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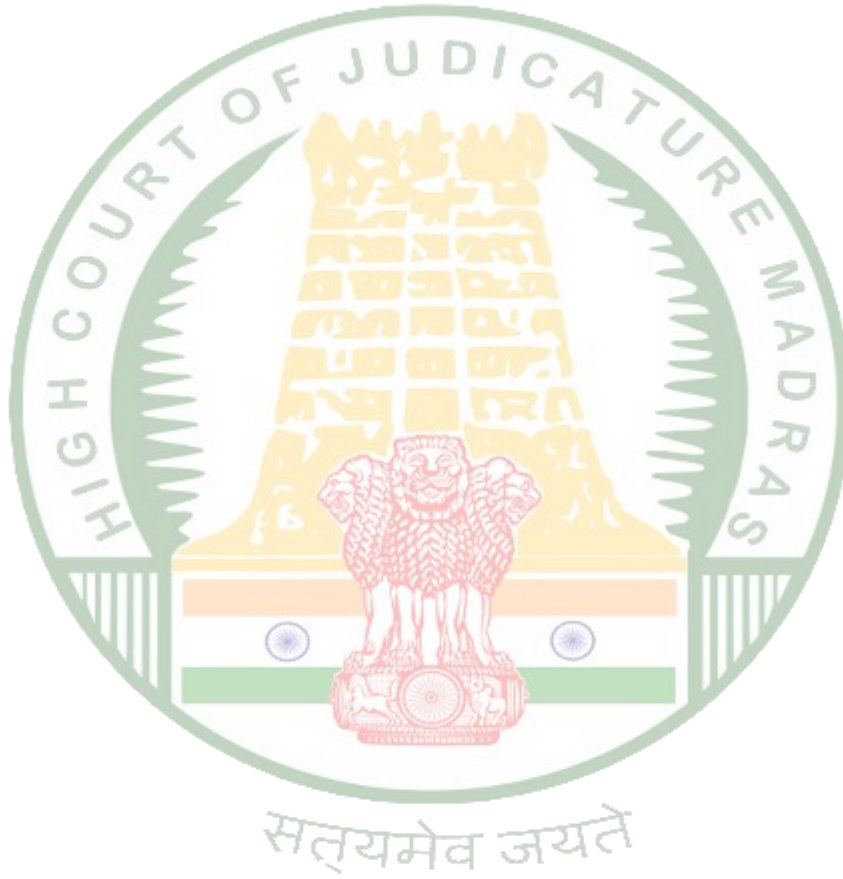
+1cc to Mr.R.Prem Narayanan, Advocate SR.No.23758

+1cc to Government Pleader SR.No.24029

W.A.No.1671 of 2018

GMR (CO)

GMV (18/06/2021)



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