

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.19881 of 2014
and
M.P.No.1 of 2014

B.Sheelarani

...Petitioner

Vs

1.The District Elementary Educational Officer,
Cuddalore, Cuddalore District.

2.The Assistant Elementary Educational Officer,
Kattumannarkoil Block,
Kattumannarkoil, Cuddalore District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to issue "no break-in-service certificate" to the petitioner and further direct the respondents to bring the petitioner under the old pension scheme by allotting TPF Number and refrain from applying the Contributory Pension Scheme to the petitioner and further direct the respondents to transfer the amount standing to the petitioner's credit in her CPS account to the TPF account to be allotted to her and grant her all attendant benefits.

For Petitioner : Mr.P.Rajendran

For R1 & R2 : Mr.A.Raja Perumal, AGP

O R D E R

The relief sought for in this writ petition is to direct the first respondent to issue "no break-in-service certificate" to the petitioner and further direct the respondents to bring her under the old pension scheme by allotting TPF Number and refrain the respondents from applying the Contributory Pension Scheme to her and for consequential direction.

2.It is the case of the petitioner that she was appointed as Secondary Grade Teacher in an aided school on 30.01.2003 and the said appointment was also approved by the District Elementary Educational Officer, Cuddalore. While so, she was appointed as

Secondary Grade Teacher in the Panchayat Union Primary School, Chinna Punganeri on 11.12.2006 as per her seniority in the Employment Exchange. According to the petitioner, in the case of teachers, who worked in the Aided School before being appointed in Panchayat Union Schools before 1.4.2003, TPF (Teacher Provident Fund) Account number was given under the Old Pension Scheme, whereas, the petitioner was not considered for grant of benefit under old pension scheme and she was brought under the New pension Scheme viz., Contributory Pension Scheme under CPS No.702233. Hence, the petitioner has filed this writ petition for the aforesaid relief.

3. Upon notice, the respondents filed a detailed counter affidavit, inter alia stating that the petitioner was appointed as a Secondary Grade Teacher in an aided school on 30.01.2003, but she left the said post and joined in a Panchayat Union School on 11.12.2006 as a fresh entrant. It is further stated therein that after she was appointed as a Secondary Grade Teacher in an aided school, she did not apply for the number under TPF. Since she joined in the Panchayat School as a fresh candidate, she was allotted with contributory pension scheme number by the Government and after a lapse of eight years from the date of her appointment, the petitioner made her claim, which is not maintainable. It is also submitted that as per G.O.430 dated 06.08.2003, the persons who were recruited after 01.04.2003 are not entitled to get pension and they will be governed under New CPS scheme. With these averments, the respondents sought for dismissal of the writ petition.

4. The learned counsel for the petitioner submitted that the petitioner was initially appointed as a Secondary Grade Teacher in an Aided School on 30.01.2003 and her appointment was also approved by the District Elementary Educational Officer, Cuddalore and hence, she ought to have been allotted TPF number.

5. Heard the learned Additional Government Pleader appearing for the respondents, who made his submissions reiterating the averments made in the counter affidavit.

6. It is seen from the documents enclosed in the typed set of papers that the petitioner's initial appointment as Secondary Grade Teacher was approved with effect from 30.01.2003, by the District Elementary Educational Officer, Cuddalore, vide proceedings No.5006/A2/03 dated 31.08.2005. Subsequently she was selected and appointed as Secondary Grade Teacher through Employment Exchange, by the proceedings of the District Elementary Educational Officer, Cuddalore in Na.Ka.No.4616/A3/2006 dated 07.12.2006. Since she was appointed before 01.04.2003, she is entitled to get pension under the old scheme. Stating so, she made a representation dated 22.01.2013

to the Assistant Elementary Educational Officer, Kattumannarkoil, who in turn, forwarded the same to the 1st respondent/District Elementary Educational Officer, Cuddalore on 22.01.2013 along with requisite documents seeking issuance of TPF number and bring the petitioner under old pension scheme. However, without considering the same, the said representation was returned by the 1st respondent to the 2nd respondent, which prompted the petitioner to approach this Court with this writ petition.

7. Having regard to the fact that the petitioner's initial appointment in an Aided School was approved by the first respondent with effect from 30.01.2003 and that, the teachers, whose services were regularised before 01.04.2003 are entitled for the benefit under the old pension, this Court is of the opinion that it is for the respondents to consider the claim of the petitioner and pass appropriate orders in accordance with law, whereas, the respondents have kept the matter pending without any consideration. Therefore, this Court deems it fit to issue appropriate direction to the first respondent in this regard.

8. Accordingly, the writ petition stands disposed of, with a direction to the first respondent to consider the representation of the petitioner dated 22.01.2013, if not already considered, and pass appropriate orders, in accordance with law, within a period of four (4) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mtl

To

1. The District Elementary Educational Officer,
Cuddalore, Cuddalore District.

2. The Assistant Elementary Educational Officer,
Kattumannarkoil Block,
Kattumannarkoil, Cuddalore District.

+1 CC to Mr.P. Rajendran, Advocate sr 17070.

+1 CC to The Government Pleader sr 17070

W.P.No.19881 of 2014

GMI (CO)
SP(09/07/2021)