



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.452 of 2020

A.Gragalakshmi

... Petitioner

vs.

- 1.The Registrar,
Mother Theresa Women's University,
Kodaikanal - 624 102,
Dindigul District.
- 2.The Vice Chancellor,
Mother Theresa Women's University,
Kodaikanal,
Dindigul District.
- 3.The Regional Director,
Local Fund Audit,
No.5, Besant Street, Baskar Complex,
Chinna Chokkikulam,
Madurai - 2.

... Respondents

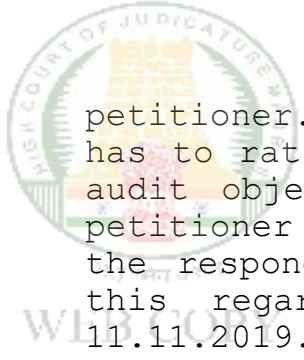
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to disburse the petitioner's pension and all other retirement benefits on her Voluntary Retirement from service as Superintendent on 06.04.2018 based on the petitioner's final representation, dated 11.11.2019, within a time limit to be fixed by this Court.

For Petitioner : Mr.M.S.Sureshkumar
For Respondents : Mr.E.V.N.Siva for R1 & R2
Mr.P.Subbaraj,
Government Advocate for R3

ORDER

The petitioner has filed this Writ Petition seeking for a direction to the first respondent to disburse the petitioner's pension and all other retirement benefits on her Voluntary Retirement from service as Superintendent on 06.04.2018, based on her final representation dated 11.11.2019.

2. According to the petitioner, she was appointed as Junior Assistant on 23.12.1992, through employment exchange and promoted as Assistant on 23.12.2003. Subsequently, she was promoted as Superintendent. Due to health problem, she applied for Voluntary Retirement. The first respondent accepted the said request, but due to some audit objection, there was a delay in relieving the



petitioner. After relieving the petitioner, the first respondent has to ratify the pay fixation of the petitioner in order to clear audit objection. Finance Committee ratified the promotion of the petitioner with retrospective effect. Even after such ratification, the respondents have not paid terminal benefits and pension. In this regard, the petitioner has given a representation dated 11.11.2019. However, till date the same was not considered. Hence, the petitioner has come out with the present Writ Petition.

3. The respondents 1 and 2 and the third respondent have filed separate counter affidavits.

4. The learned counsel appearing for the respondents 1 and 2 contended that the petitioner was not promoted as Assistant during the year 2003. There was no provision for promotion for Junior Assistant to the post of Assistant. The petitioner was appointed as Assistant by direct recruitment. At the time of appointment as Assistant, she was drawing more salary than the minimum salary payable to the Junior Assistant. In order to protect the pay of the petitioner, her pay was fixed more than the minimum pay payable to the Assistant on condition that if it is found that any excess amount is paid, the petitioner has to refund the said amount. Audit objection is raised with regard to the fixation of pay scale of the petitioner in the post of Assistant. As far as Voluntary Retirement is concerned, the respondents 1 and 2 accepted the request of the petitioner for Voluntary Retirement on condition that the petitioner has to report duty in the Head Office and submit No Due Certificate. The petitioner did not comply with the said condition, but she was extending Medical Leave. In view of the same, there was a delay in relieving the petitioner and getting ratification. After obtaining ratification from the Finance Committee, the proposal for sanctioning the pension and other retirement benefits was forwarded to the third respondent on 20.11.2019 and the same is pending with the third respondent.

5. The learned Government Advocate appearing on behalf of the third respondent submitted that petitioner's scale of pay was fixed excessively and audit objection raised is still pending. Unless the audit objection is cleared, the petitioner is not entitled for pension and prayed for dismissal of the Writ Petition.

6. Heard Mr.M.S.Suresh Kumar, learned counsel appearing for the petitioner, Mr.E.V.N.Siva, learned counsel appearing for the respondents 1 and 2 and Mr.S.Subbaraj, learned Government Advocate appearing for the third respondent and perused the materials available on record carefully.

7. From the materials on record and the rival submissions of the counsel for the petitioner and the respondents, it is seen that the request of the petitioner for voluntary retirement was accepted and after some delay, the petitioner was relieved. The petitioner



was not paid terminal benefits and also the pension was not sanctioned to her. The petitioner has given a representation on 11.11.2019 in this regard. According to the respondents 1 and 2, they have forwarded the proposal for sanctioning of pension to the respondent on 20.11.2019 itself. The said proposal is pending with the third respondent. The third respondent cannot keep the proposal pending indefinitely and the third respondent is bound to pass orders as per law.

8. In view of the same, the third respondent is directed to pass orders on the proposal submitted by the respondents 1 and 2, for sanctioning of pension, within a period of two weeks from the date of receipt of a copy of this order.

9. As far as terminal benefits are concerned, it is for the respondents 1 and 2 to pay eligible amounts to the petitioner. Respondents 1 and 2 are directed to consider the request of the petitioner for payment of terminal benefits and pay the eligible amounts to the petitioner, considering her representation dated 11.11.2019 on merits, within a period of two weeks from the date receipt of the proposal from the third respondent.

10. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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

The Regional Director,
Local Fund Audit,
No.5, Besant Street, Baskar Complex,
Chinna Chokkikulam,
Madurai - 2.



+1 CC to M/s.SPL GP (SR-22111[F] dated 12/07/2021)

W.P (MD) No.452 of 2020
09.07.2021

PM(CO)
KB(29.07.2021) 4P 3C