



WEB COPY

W.A.(MD).No.100 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2021

CORAM

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM

AND

The Hon'ble Mrs.JUSTICE S.ANANTHI

W.A. (MD) .No.100 of 2020

and

C.M.P (MD) .No.899 of 2020

Against WP (MD) No.10518 of 2014

The Director,
Gandhigram Institute of Rural
Health and Family Welfare Trust,
Ambathurai R.S.
Gandhigram Post,
Dindigul District-624 302.

.. Appellant/Respondent

Vs.

A.Sakthivelu

.. Respondent/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order passed by this Court in W.P.(MD).No.10518 of 2014 dated 06.12.2019.

Prayer in WP(MD). 10518 of 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to pay the salary, increments due and other monetary benefits such as service and retirement benefits on the basis of the salary payable on the date of retirement on 31.08.2003 and also the consequential arrears arising thereon together with 12% interest within the period specified by this Honourable Court and granting such other and further reliefs which this Honourable Court deems fit.

For Appellant : Mr.V.Vijayshankar

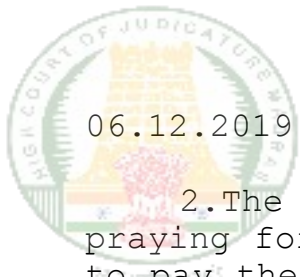
For Respondent : Mr.K.Muthumalai

J U D G M E N T

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

This appeal by the Director of Gandhigram Institute of Rural Health and Family Welfare Trust is directed against the order dated

<https://hcservices.ecourts.gov.in/hcservices/>



06.12.2019 in W.P. (MD).No.10518 of 2014.

2.The said writ petition was filed by the first respondent praying for issuance of a writ of Mandamus, to direct the appellant to pay the salary, increments due and other monetary benefits, such as service and retirement benefits on the basis of salary payable on the date of retirement i.e., on 31.08.2003 and also the consequential arrear arising thereon together with interest at 12%.

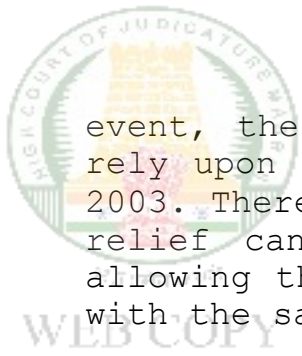
3.The learned Single Bench by the impugned order, by placing reliance on the judgment of the Hon'ble Division Bench of this Court in W.A.(MD).Nos.477 of 2011 and 570 to 572 (**P.Theetha Pillai Vs.The Director, Gandhigram Institute of Rural Health & Family Welfare Trust, Dindigul**), allowed the writ petition.

4.Heard, Mr.V.Vijayshankar, the learned counsel for the appellant and Mr.K.Muthumalai, the learned counsel for the respondent.

5.Before we examine the applicability of the judgment in the case of **P.Theetha Pillai** (supra), we have to note the following facts:-

The respondent was working as Attender and retired from service on attaining the age of superannuation on 31.08.2001. After about 13 years, he filed a writ petition for the aforementioned relief. What prompted the first respondent to do so is the amendment to the Service Rule, which came into force on January 2003 increasing the age of retirement to 60 years. The service regulation was once again amended in the year 2006 by rolling back the age of retirement to 58 years. This was the subject matter challenged in W.P(MD).No.7036 of 2011 in the case of *J.Pandian Vs The Director of Gandhigram, Institue of Rural Health and Family Welfare Truse, Ambathurai, Gandhigram Post, Dindigul District and one another* and the Court held that the service conditions of the existing employees pursuant to the amendment of the Service Rules in January 2003 cannot be altered. This judgment can have no application to the facts of the present case. Therefore, the learned Writ Court committed an error in following the said judgement.

6. The second aspect is whether the first respondent can rely upon the Fundamental Rules and contend that the age of the retirement should be fixed as 60 years. The appointment of the first respondent was under the Service Rules of the appellant and he had accepted the appointment and served for more than three decades and retired from service, on attaining the age of superannuation on 31.08.2001. After about 13 years, the present attempt has been made. The amendment to the Service Rules made in January 2003 is only prospective and not either retrospective or retroactive. In any



event, the employee, who retired in the year 2001, cannot seek to rely upon the amended service Rules, which was amended in the year 2003. Therefore, except for our sympathy to the first respondent, no relief can be granted to him. The learned writ Court erred in allowing the writ petition. Therefore, we are inclined to interfere with the same.

7. In the result, the writ Appeal is allowed. The order and direction issued in the writ petition is set aside and consequently, the writ petition is dismissed. No Costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tta/ssb

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+1 CC to M/s.V.KARTHIKEYAN, Advocate (SR-19090[F] dated 09/06/2021)

W.A. (MD) .No.100 of 2020
and
C.M.P (MD) .No.899 of 2020

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