



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD) No.5695 of 2020

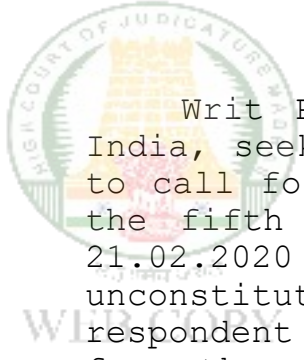
G.R.Kalaiarasi

... Petitioner

versus

1. The Secretary,
Department of Education,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 002.
2. The Principal Secretary / Commissioner
of Treasuries and Accounts,
Government of Tamil Nadu,
CPS Cell, Government Data Centre,
Guindy, Chennai - 600 025.
3. The Accountant General,
O/o. The Accountant General,
Teynampet, Chennai -18.
4. The Joint Director,
Directorate of School Education,
DPI Building, College Road,
Nungambakkam, Chennai.
5. The Chief Educational Officer,
CEO Office,
Thiruvallur District,
Chennai.
6. The Chief Educational Officer,
CEO Office,
Tallakulam,
Madurai District.
7. The District Educational Officer,
DEO Office, Ambattur,
Chennai - 600 053.
8. The Headmistress,
Government Girls High School,
Mohappair East,
Chennai - 37.

... Respondents



Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the fifth respondent vide proceedings Na.Ka.No.8973/A4/2019 dated 21.02.2020 and quash the same as illegal, improper, unalwful, unconstitutional and arbitrary and consequently, direct the fourth respondent to pass appropriate order on ascertaining the particulars from the respondents 5 to 8, based on the representation of the petitioner dated 24.03.2016, the reminder dated 02.02.2018 and the fresh representation dated 04.09.2019 for disbursement of Gratuity payable to him.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.J.Ashok,
Additional Government Pleader

ORDER

The writ petition is filed against the order of the fifth respondent dated 21.02.2020, denying the gratuity amount to the petitioner.

2. The learned counsel appearing for the petitioner submits that the petitioner was appointed as B.T.Assistant in the eight respondent School in the year 2007 and retired on superannuation on 31.05.2016 after rendering 8 years and 7 months service. As per Section 4 of the Payment of Gratuity Act, the petitioner is entitled for gratuity to the period of service rendered by him in the eight respondent School. Therefore, he made a claim to the first respondent. Since the claim was not considered, he filed a writ petition before this Court in W.P.(MD)No.26479 of 2019. This Court, vide order dated 20.01.2020, disposed of the writ petition with a direction to the fifth respondent to consider the petitioner's representation dated 04.09.2019 on its merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of the order. Accordingly, the impugned order came to be passed without considering the relevant provisions of Section 4 of the Payment of Gratuity Act.

3. Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents submits that the petitioner was appointed only in the year 2007. As per G.O.Ms.No.430, (Finance Department), dated 06.08.2020, the Government Employees recruited on or after 01.04.2003 are entitled for option only to Contributory Pension Schemes and they are not entitled under the Tamilnadu Liberalised Pension Scheme 1979. As per CPS Scheme, the employees are assigned CPS Account Number and any contribution would be made in the CPS Account only and the CPS amount has also been disbursed to the



Scheme, he is not entitled for gratuity and on misconception, this writ petition has been filed.

4. This Court paid its anxious consideration to the rival submissions made and perused the available materials.

5. Admittedly, the petitioner was appointed only in the year 2007 and he was covered under the Contributory Pension Schemes and CPS amount has also been disbursed to the petitioner. Therefore, the petitioner cannot claim gratuity amount as per Section 4 of the Payment of Gratuity Act.

6. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

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6. The Chief Educational Officer,
CEO Office,
Tallakulam,
Madurai District.

WEB COPY

7. The District Educational Officer,
DEO Office, Ambattur,
Chennai - 600 053.

+1 CC to M/s.R. MURUGAN, Advocate (SR-35982[F] dated 26/11/2021)

+1 CC to M/s.SPL GP (SR-36305[F] dated 29/11/2021)

W.P (MD) No. 5695 of 2020
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