



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P(MD) No.12348 of 2014 and

M.P(MD) .Nos.1 and 2 of 2015 and 2 of 2014,1 of 2014

G. Indira

:Petitioner

..VS..

1.The principal Secretary,
Social Welfare and Nutritious Meal Programme Department,
Fort. St. George,
Chennai -9.

2.The Principal Secretary,
School Education Department,
Fort St. Geroge,
Chennai -9.

3.The Principal Secretary,
Finance Department,
Fort St. Geroge,
Chennai -9.

4.The Director,
Social Welfare Department,
Chinthathiripet,
Egmore, Chennai -2.

5. The Director,
School Education Department,
DPI Campus,
College Road, Nungampakkam,
Chennai -6.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the entire records pertaining to the G.O.Ms.No.34, dated 14.03.2013 of the Social Welfare and Nutritious Meal Programme Department and quash the amendment made in G.O.Ms.No.6, dated 06.01.2010 of the Social Welfare and Nutritious Meal Programme Department.

For Petitioner	:	No appearance
For respondents	:	Mr. R. Ragavendran Government Advocate (Civil side) for R1 to R5



O R D E R

This Writ Petition has been filed to quash the impugned order passed in G.O. Ms. No. 34 dated 14.03.2013 and G.O.Ms.No.6, dated 06.01.2010, which grants pension benefits to persons who were absorbed before 01.04.2003 and declines to persons who were absorbed after 01.04.2003.

2. The petitioner was appointed as a Noon Meal Organizer at Melpuram Panchayat Union School in Kanyakumari District on 05.06.1980. Then the petitioner was brought under the Time Scale of Pay vide G.O. Ms. No. 2 Social Welfare and Nutritious Meal Programme Department dated 03.01.1996 with effect from 01.01.1996. The petitioner is claiming to extend the benefits of G.O.Ms.No.34, dated 14.03.2013 as amended vide G.O.Ms.No.6, dated 06.01.2010 and request to include the 50% of the past service rendered in consolidated pay and grant pension. It is the case of the petitioner that the said two G.O.s 34 and 6 have granted pension benefits to persons who were regularized prior to 01.04.2003, but denied the same benefits to persons who were regularized after 01.04.2003. Hence, the petitioner has approached this Court with the above prayer.

3. None appeared for the petitioner. Heard the learned Government Advocate (Civil Side) appearing for the respondents.

4. The government has issued G.O. Ms. No. 408 dated 25.08.2009, wherein it is stated that the persons who were regularized prior to 01.04.2003 are entitled to include 50% of past service to get pension benefits, but denied the same benefits to persons who were regularized after 01.04.2003. The grant of pension to persons who were regularized prior to 01.04.2003 is a policy decision of the government and the same cannot be interfered with. The same policy decision is incorporated in G.O. Ms. No. 34 dated 14.03.2013 and G.O. Ms. No. 6 dated 06.01.2010 and hence the policy decision in the said G.O.s 34 and 6 cannot be interfered with.

5. The issue was considered by this Court in a similarly placed person in W.P. (MD). No.13775 / 2014 vide order, dated 20.09.2021 and following the Full Bench Judgment of this Court has passed an order, wherein the claim of the employee is negatived. The Hon'ble Full Bench has passed an order in W.A.No.158 of 2016 and batch and the relevant portion is culled out hereunder:

"46. In the light of the above, we answer the reference as follows:

i) Those who are freshly appointed on or after 01.04.2003 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 06.08.2003.

ii) Those government servants/employees appointed prior to 01.04.2003 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-provincialized service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularized before 01.04.2003, half of 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 cutoff date and later appointed under Rule 10(a)(1) of Tamil Nadu State and Subordinate Service Rules and absorbed into regular service after 01.04.2003 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 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension."

6. The G.O. Ms. No. 408 was up held by the Hon'ble Full Bench in W.A. Nos.158 of 2016. Since the G.O. Ms. No. 34 and G.O. Ms. No. 6 is in consonance with the said G.O. Ms. No. 408, therefore this Court up holds the G.O. Ms. No. 34 and G.O. Ms. No. 6.

7. In the present case the petitioner was appointed on 05.06.1980, then the petitioner was brought under time scale of pay on 01.01.1996. Since the petitioner was brought under time scale of pay, the petitioner is stating that she is entitled to the benefits. But the petitioner was regularized on 30.09.2008 in the post of Rural Welfare Officer. As per the Judgment of the Hon'ble Full Bench of this Court, the persons who were appointed before 1.04.2003 and regularized prior to 01.04.2003 will alone be entitled to include 50% of past service. Since the petitioner was regularized on 30.09.2008, the petitioner is not entitled to claim to calculate 50% of the past service in order to pay pension.



8. Therefore, the Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AE)

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/ /2021

Sub Assistant Registrar(CS)

trp

To

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+1 CC to M/s.SPL GP (SR-35202[F] dated 19/11/2021)

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M.P(MD) .Nos.1 and 2 of 2015 and 2 of 2014
18.11.2021

RJ(CO)

KB(21.12.2021) 4P 7C