



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 18.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.6057 of 2022
and
W.M.P.No.6139 of 2022

K.Radhakrishnan

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government,
School Education Department,
Secretariat,
Chennai - 91.
2. The Director of Government Examinations,
Directorate of Government Examinations,
College Road, Chennai - 600 006.
3. The Deputy Director of Government Examinations
(Administration),
O/o. The Directorate of Government Examinations,
College Road, Chennai - 6.

... Respondents

Prayer: Writ petition filed Article Section 226 of the Constitution of India seeking to issue a writ of Certiorarified Mandamus, calling for the records connected in Na.Ka.No.252136/E2-1/2019, dated 17.10.2019 of the 2nd respondent and quash the same and consequently direct the respondents to extend the benefits of G.O.(1D).No.286, School Education (GE-1) Department, dated 19.07.2016 and G.O.(1D) No.238, School Education (Nee.Va.4(2) Department dated 07.04.2017 and G.O.(Pa). No.72, School Education (GE) Department, dated 28.02.2019 to the petitioner's wife also for regularisation in the post of Record Clerk from 1998 onwards for the purpose of family pension and grant family pension to the petitioner from the date of the death of the petitioner's wife on 29.01.2012.

For Petitioner : Mr.G.Elanchezhian

For Respondents : Mr.V.Manoharan
Additional Government Pleader



ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

WEB COPY

2. This writ petition has been filed seeking to issue a Writ of Certiorarified Mandamus, quashing the impugned order dated 17.10.2019 passed by the 2nd respondent and consequently direct the respondents to extend the benefits of G.O.(1D).No.286, School Education (GE-1) Department, dated 19.07.2016; G.O.(1D) No.238, School Education (Nee.Va.4(2) Department dated 07.04.2017; and G.O.(Pa).No.72, School Education (GE) Department, dated 28.02.2019 to the petitioner's wife by regularising her service in the post of Record Clerk from 1998 onwards for the purpose of family pension and to grant family pension to the petitioner from the date of the death of the petitioner's wife on 29.01.2012.

3. The case of the petitioner in brief:

The petitioner's wife namely Rathinam was initially appointed as Section Writer on daily wage basis in the year 1985 and she continuously worked till 09.10.2006. Thereafter, her service was regularised in the post of Record Clerk on 20.10.2006 and she died on 29.01.2012. According to the petitioner, in the case of Mr.P.Paramasivam, who is junior to his wife, the Government had regularised his service on completion of 10 years of service and also paid terminal benefits. Therefore, the petitioner gave representation on 04.07.2019, requesting to regularise his wife's service from 1998 onwards and to give pensionary benefits. But the respondents rejected the same. Hence this writ petition.

4. The learned counsel appearing for the petitioner submitted that, in similar cases, the Government had issued G.O.(1D).No.286, School Education (GE-1) Department, dated 19.07.2016; G.O.(1D) No.238, School Education (Nee.Va.4(2) Department dated 07.04.2017; and G.O.(Pa).No.72, School Education (GE) Department, dated 28.02.2019 by regularising the service of the individuals from the year 1998 and hence, the same benefit may be extended to the petitioner's wife and consequently, pensionary benefits may be granted to the petitioner.

5. Admittedly, the service of the petitioner's wife was regularised on 20.10.2006, as per G.O.Ms.No.203 dated 19.10.2006. Thereafter, while in service, she died on 29.01.2012. When regularisation order was passed in the year 2006, the same had not been challenged by the petitioner's wife, seeking regularisation of her service from the date on which she completed 10 years of service. Further, the service of the



petitioner's wife was regularised by the Government by giving concession as early as on 20.10.2006 and now after a lapse of 16 years, the petitioner cannot seek regularisation from the date on which his wife completed 10 years of service. That apart, as per G.O.Ms.No.259 Finance (Pension) Department, dated 6.8.2003, the Government of Tamil Nadu has introduced a new Pension Scheme, i.e. Contributory Pension Scheme, thereby, those who are newly recruited after 01.04.2003 are not entitled to get pension benefits. Hence, the petitioner is not entitled to the benefit of the old Pension Scheme. Therefore, this court is of the view that there is no error in the impugned order passed by the second respondent and the same does not warrant any interference by this court.

6. Accordingly, this writ petition is dismissed. No costs. Consequently, connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mst

To

1. The Secretary,
School Education Department,
Secretariat, Chennai - 91.
2. The Director,
Directorate of Government Examinations,
College Road, Chennai - 600 006.
3. The Deputy Director (Administration),
Directorate of Government Examinations,
College Road, Chennai - 6.

+1cc to Mr.G.Elanchezhiyan, Advocate, S.R.No.18466

+1cc to the Government Pleader, S.R.No.18827

W.P.No.6057 of 2022
and

WMP No.6139 of 2022

NRL[co]
NSK 25/04/2022