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W.P.No.10746 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2022

CORAM :

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.No.10746 of 2020

and

W.M.P.No.13053 of 2020

Dr.Malliga Chandiran

.. Petitioner

Vs.

1. The State of Tamil Nadu
Rep by the Secretary to Government
Department of Higher Education
Fort St. George, Chennai.
2. The Director of Collegiate Education
Chennai - 600 010.
3. The Joint Director of Collegiate Education
Vellore Region, Vellore.
4. The Interim Administrator
M/s. Pachappa's Trust
Pachaiyaappa's College Campus
Chennai - 600 030.
5. The Secretary
M/s. Pachappa's Trust
Pachaiyaappa's College Campus
Chennai - 600 030.
6. Thiruvalluvar University
Rep. by its Registrar, Vellore.



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Mr.V.Ajay Khose
[R6, R7 and R10, R11]

Mr.V.Vijay shankar
Standing Counsel
[R8 and R9]

ORDER

The prayer sought for herein is for a writ of Mandamus to direct the respondents to forthwith disburse all the retiral benefits and arrears of pension to the petitioner with interest at the rate of 12% per annum from 01.09.2019 till the date of disbursement.

2. The petitioner was working as a Principal at the seventh respondent college viz., C.Kandaswamy Naidu College for Women, which is being administered by the Trust called M/s.Pachayappa's Trust viz., the fourth respondent. The petitioner, after having rendered several years of service, retired on superannuation on 30.08.2019.

3. However, her retirement and pensionary benefits have not been paid. When this was requested by the petitioner, a communication has been issued on 14.02.2020 by the Trust to the petitioner stating that the petitioner must get a no due certificate from the Trust and produce it



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before the authorities for the purpose of forwarding the pension proposal to the Government for sanctioning and also further objection seems to have been raised that insofar as the accounting submitted or prepared by the Trust for the year 2017-18 or the relevant years are yet to be finalized or approved by the Competent Authority.

4. In this context, it is submitted by the learned counsel appearing for the Trust, on instructions and by relying on the averments made in the counter affidavit of the Trust that during the service of the petitioner as Principal of the college concerned, she allegedly involved in certain malpractices, which resulted in loss to the Trust. Therefore, in order to enquire the same and to recover such loss occurred to the Trust because of the commission and omission allegedly on the part of the petitioner, the said no due certificate was not given.

5. Heard Mr.V.Manoharan, learned Additional Government Pleader appearing for the official respondents, who would submit that, only on the proposal received from the college management i.e., the Trust to the Government, it was offered the payment of Special Pay to the extent of Rs.7,20,000/- and increment arrears of Rs.1,07,572/- and



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these two amounts have been already sanctioned by the Government.

Insofar as the other due payable to the petitioner as claimed by the petitioner in this writ petition, since no proposal has come from the Trust being an Administration or management of the college concerned, the official respondents cannot act upon and once such proposal comes from the Trust, it would be acted upon.

6. Learned counsel appearing for the private respondents i.e., the tenth and eleventh respondents, submits that, even though the petitioner retired or permitted to retire on 30.08.2019, for such kind of allegation made against the petitioner that she misused her position, unless and until the bills and other accounts are produced by the petitioner, during the period when she was working as the Principal, the same cannot be cleared and the accounts cannot be approved at the hands of the tenth respondent, who is the present Principal of the college concerned and he would also submit that if at all the Trust wants to initiate any disciplinary proceedings or enquiry on the alleged financial irregularities on the part of the petitioner/Principal, there can be no impediment to do the same even after the retirement of the petitioner.



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7. I have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the material records placed before this Court.

8. Admittedly, the petitioner on superannuation was permitted to retire on 30.08.2019 without any condition retaining the service of the petitioner having been made for the limited purpose of initiating any disciplinary proceedings against the petitioner or conducting any enquiry against her for the alleged financial irregularities, now being unearthed or being allegedly unearthed by the management i.e., the Trust.

9. Primarily, the link between the petitioner and the management i.e., the Trust has been cut off. Assuming that under Rule 9 of the Tamil Nadu Pension Rules, 1978, that kind of enquiry can be conducted, no such enquiry so far has been conducted though the petitioner has been retired from service with effect from 30.08.2019.

10. Insofar as the issuance of no due certificate is concerned, subject to the finalization of the over all account of the Trust concerned of the relevant accounting year, this Court feels that such kind of no due



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certificate can be given as conditional no-due certificate to the petitioner, based on which, the petitioner's pension proposal and the retirement benefits proposal payable to the petitioner can be forwarded by the Trust to the official respondents, who on considering the same can decide it and whatever the entitlement of the petitioner can be calculated and be sanctioned.

11. In that view of the matter, this Court feels that this writ petition can be disposed of with the following orders:

- ◆ That there shall be a direction to the fourth and fifth respondents to issue a no due certificate required by the petitioner and on issuance of such no due certificate, the same can be produced by the petitioner to the seventh respondent, who shall forward the same along with the pension proposal to the fourth and fifth respondents Trust, who in turn can forward the same to the official respondents i.e., the first and second respondents, and on receipt of such proposal, the first and second respondents shall consider the same and pass necessary orders with regard to the entitlement of the petitioner for getting retirement and pensionary benefits thereafter.
- ◆ The aforesaid needful shall be undertaken by the fourth and fifth



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respondents on their part within a period of four weeks from the date of receipt of a copy of this order.

- ◆ On receipt of the proposal, the first and second respondents, as the case may be, shall act upon and pass orders on such proposal within a period of eight weeks thereafter.

With these directions, this writ petition is disposed of. No costs.

Connected miscellaneous petition is also closed.

23.09.2022

Index:Yes/No
drm/mp



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R.SURESH KUMAR,J.

(drm/mp)

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