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W.P.No.40723 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.40723 of 2016

V.Krishnaveni

...Petitioner

-Vs-

1. Government of Tamil Nadu,
Rep by its Secretary to Government,
Social Welfare and Nutritious
Meal Programme Department,
Fort St. George, Chennai-600 009
2. The Commissioner
Commissioner of Social Welfare,
2nd Floor, SIDCO Corporate Office Old Building,
Guindy, Chennai-600 032
3. The Joint Director of Social Welfare (Administration),
Guindy Chennai-32
4. The District Social Welfare Officer
Salem District, Salem
5. The Principal Accountant General (A&E)
AG's Office Complex, 361, Anna Salai,
Teynampet, Chennai-600 018.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying for the issuance of a Writ of Mandamus, directing the respondents
to count 50% of the petitioner's Noon Meal / Integrated Child



W.P.No.40723 of 2016

Development Services Scheme (ICDS) pursuant to G.O.Ms.No.6, issued by the first respondent dated 06.01.2010 and award pension and to disburse the arrears with all other monetary benefits along with 18% of interest per annum to the petitioner.

For Petitioner : Mr.S.Ram Kumar

For Respondents :

For R1 to R4 : Mr.K.Suresh, Government Advocate

For R5 : Mrs.Hema Muralikrishnan

ORDER

The order of rejection, rejecting the claim of the writ petitioner to count 50% of the petitioner's services as Noon Meal / Integrated Child Development Services Scheme is under challenge in the writ petition.

2. The petitioner was appointed under the Noon Meal Scheme initially. Subsequently, she was appointed as a “Child Welfare Organiser” at Panchayat Union. On successfully completion of eligible tests, the petitioner was appointed as Supervisor Grade-II on regular basis. The petitioner retired from service on 30.06.2015.



W.P.No.40723 of 2016

3. The grievance of the writ petitioner is that the service rendered by her under the Noon Meal Scheme was not taken into consideration for the purpose of counting the qualifying services for grant of pension. In this regard, the petitioner states that as per G.O.Ms.No.6, dated 06.01.2010, the petitioner is eligible for counting of the services. Thus, the benefit is to be extended.

4. G.O.Ms.No.6 contemplates that the employees who served under the Noon Meal Scheme on consolidated pay salary are eligible for counting 50% of their services as qualifying services. However, in the present case, the fact remains that the petitioner was regularly absorbed as a Supervisor Grade-II only on 04.03.2014, after the implementation of the new pension scheme, i.e. contributory pension scheme.

5. In respect of the employees falling under the contributory pension scheme, the counting of 50% of their services would not arise under Section 11(4) of the Tamil Nadu Pension Rules 1978. When the petitioner is not falling under the ambit of the Tamil Nadu Pension Rules 1978, the benefit of counting 50% of services cannot be granted. The said position was decided by the Division Bench of this Court in Writ Appeal



W.P.No.40723 of 2016

in W.A.(MD)No.587, 605, 606 and 1024 of 2014 dated 03.12.2014. The Division Bench held that the employees are not entitled for counting of 50% of their service rendered in the Noon Meal Programme and Integrated Child Development Scheme Services, in view of the fact that they were appointed after 01.04.2003 in a sanctioned post on regular basis.

6. The position was further clarified by the Government in G.O.Ms.No.34 dated 14.03.2003, wherein in it is clarified that the employees who were regularised after 01.04.2003 are not eligible for counting of 50% of the services. The amendment issued in the said G.O.Ms.No.34 dated 14.03.2013 unambiguously stipulates that the employees, whose services were regularised before 01.04.2003, alone are eligible for counting of 50% of the services as per the Government order issued in G.OMs.No.6 dated 06.01.2010. Thus, the Government issued an amendment to G.OMs.No.6 dated 06.01.2010 in G.OMs.No.34 dated 14.03.2013. Based on the said government order, the order impugned was passed stating that the petitioner was absorbed in the regular sanctioned post only on 04.03.2014 and therefore, the petitioner is falling under the contributory pension scheme and consequently, not eligible to avail the benefits of the provisions of the Tamil Nadu Pension Rules, 1978.



W.P.No.40723 of 2016

WEB COPY

7. Thus, this Court does not find any infirmity in respect of the order impugned passed by the respondent and accordingly, this writ petition stands dismissed. No costs.

23.09.2022
(5/5)

Index:Yes
Speaking order
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To

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S.M.SUBRAMANIAM, J.



WEB COPY



W.P.No.40723 of 2016

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W.P.No.40723 of 2016

23.09.2022
(5/5)