

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.29089 OF 2014

AND

M.P.NO.1 OF 2014

J.Vimala Shanthakumari

...Petitioner

Vs

1. State of Tamil Nadu,
Rep. by the Secretary,
Department of Education,
fort St. George, Chennai - 600 009.
2. The Director of School Education,
DPI Campus, College Road,
Nungambakkam, Chennai - 600 006.
3. District Educational Officer,
Coimbatore District,
Coimbatore - 641 001.
4. Correspondent,
C.S.I. Boys Higher Secondary School,
Coimbatore - 641 001.
5. Principal Accountant General (A.&E.),
Anna Salai, Teynampet,
Chennai - 600 018.

...Respondents

PRAYER:

Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent which is made in (1) O.Mu.No.5316 Aa.3/2013 dated Nil signed dated 14.08.2013 and (2) Mu.Mu.No.8525 A3/2013 dated Nil .02.2013 signed dated 24.02.2014 and quash the same, consequently direct the respondents to count the service rendered in the management cadre from 16.06.1994 to 21.04.2003 and also the service rendered after retirement by way of extension from 01.12.2012 to 31.05.2013 by the petitioner for the purpose of grant of pension under Old Pension Scheme and other retirement service benefits to the petitioner and thereby

further direct to pay the pension and other retirement service benefits and arrears of pension to the petitioner.

For Petitioner : Mr.C.Premkumar

For R1 to R3 : Mrs.S.Anitha
Special Government Pleader
For R4 : Mr.S.Bharathi Rajan
For R5 : M/s.T.S.Selva Rani

ORDER

The order of rejection, rejecting the claim of the writ petitioner to count the services of the petitioner as qualifying service from her date of initial appointment on 16.06.1994, is under challenge in the present writ petition.

2. Admittedly, the petitioner was appointed as B.T. Assistant in the management cadre on 16.06.1994 in the fourth respondent school. The petitioner was continuously working in the fourth respondent school and thereafter, her services were regularized in the sanctioned post with effect from 22.04.2003. The regular appointment of the petitioner was approved by the competent authorities of the Education Department from 22.04.2003 and the petitioner reached the age of superannuation on 30.11.2012 and she was allowed to retire from service.

3. The learned counsel for the petitioner made a submission that the petitioner was initially appointed as B.T. Assistant in the management cadre on 16.06.1994 and therefore, she is entitled for regular pension under the Old Pension Scheme and the services rendered from the year 1994 is to be reckoned for the purpose of calculating the qualifying services.

4. The fifth respondent/Principal Accountant General filed a counter affidavit by stating that the petitioner was appointed on 16.06.1994 in the fourth respondent school and thereafter, she was appointed as Tamil Pandit in regular service with effect from 22.04.2003 by the third respondent/District Educational Officer, Coimbatore. She attained the age of superannuation on 30.11.2012 and therefore, the period of services rendered in a management cadre cannot be taken into account for the purpose of determining the qualifying service.

5. The writ petitioner as management cadre was receiving salary from the management and her appointment was not approved during the relevant point of time. She was appointed in a sanctioned post on regular basis only with effect from

22.04.2003 and the said date is to be taken into account for the purpose of calculating the qualifying service. Therefore, the petitioner is not entitled to get the benefit of Old Pension Scheme, as the New Pension Scheme came into effect from 01.04.2003 onwards. Thus, the relief as such sought for by the petitioner cannot be granted.

6. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Secretary,
Department of Education,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
DPI Campus, College Road,
Nungambakkam,
Chennai - 600 006.
3. The District Educational Officer,
Coimbatore District,
Coimbatore - 641 001.
4. The Principal Accountant General (A.&E.),
Anna Salai, Teynampet,
Chennai - 600 018.

+1cc to Mr.S.Bharathi Rajan, Advocate, S.R.No.41730

+1cc to Mr.R.Malaichamy, Advocate, S.R.No.41775

W.P.No.29089 of 2014

PMK(CO)
PM/25/07/2022