



W.P.(MD)No.4490 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.4490 of 2020

K.Chithra Devi

... Petitioner

Vs.

- 1.The State of Tamil Nadu
Rep.by its Secretary,
Department of Education,
Fort St.George,
Chennai-600 009.
- 2.The Joint Director (Secondary Education) of School Education,
College Road,
Chennai-6.
- 3.The Chief Educational Officer,
Virudhunagar District,
Virudhunagar.
- 4.The District Educational Officer,
Srivilliputhur,
Virudhunagar District.



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5.R.V.Thevar Memorial Girls High School,
Cholapuram,
Rajapalayam,
Virudhunagar District.
Rep.by its Secretary

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent in Na.Ka.No.17826/D2/E1/2019 dated 06.02.2020 (but wrongly printed as 06.02.2019) and quash the same and directing the respondents 1 to 4 to regularize the service of the petitioner from her initial date of appointment on 17.06.1986 for the purpose of pension with all other consequent monetary benefits in the light of the judgment of Division Bench of this Hon'ble Court passed in WA(MD).Nos.291 and 292/2008 dated 26.06.2008 and based upon the petitioners representation dated 05.05.2019.

For Petitioner : Mr.K.KKannan

For Respondents : Mr.S.Saji Bino
Special Government Pleader
for R1 to R4



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ORDER

This Writ Petition has been filed to call for the records pertaining to the order passed by the second respondent, dated 06.02.2020 in Na.Ka.No. 17826/D2/E1/2019, quash the same and direct the respondent Nos.1 to 4 to regularize the service of the petitioner from her initial date of appointment on 17.06.1986 for the purpose of pension with all other consequential monetary benefits.

2. The case of the petitioner is that the petitioner has completed B.Sc., B.Ed., and was appointed as Head Master in the fifth respondent School on 17.06.1986. He retired from service on 31.08.2012. However, the Competent Authority has not approved the appointment of the petitioner. Therefore, the petitioner has filed a writ petition before this Court in W.P.No.10451 of 1993. This Court, vide its order, dated 10.03.1994, has ordered the petition and in paragraph No.6 of the order, it has been stated that the Government has approved the appointment of the petitioner on the



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ground that she is willing to forgo her claim for the salary during the years 1986-1991 and subsequently, the petitioner was paid the salary. The said post was approved in the year 1991 and she retired from service in the year 2012. However, the service rendered by the petitioner from 1986-1991 was not calculated for the purpose of pension and annual increment. In this regard, the petitioner made a representation before the second respondent on 05.05.2019. However, the same was rejected on 06.02.2020. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submits that admittedly, the petitioner was appointed as Head Master and his appointment was not approved, since she has no five years of teaching experience in the year 1986. However, the said post was approved in the year 1991 and the service rendered between 1986 and 1991 was not considered for the purpose of seniority and pension. Hence, the order impugned is liable to be interfered with.



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4. The learned Special Government Pleader appearing for the respondents submits that the petitioner was appointed as Head Master in the fifth respondent School without adequate qualification in the year 1986 and her appointment was approved only in the year 1991. Hence, the service rendered by the petitioner before 1991 in recognised unaided school should be taken only for experience and not for pension benefits and pay fixation. Therefore, there is no fault on the part of the respondents in declining the pension and annual increment.

5. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 4.

6. The facts in the present case are not in dispute. Admittedly, the petitioner was appointed as Head Master in the fifth respondent School in the year 1986 and since she has no five years of teaching experience, her appointment was not approved by the Department. Thereafter, the petitioner has started to file litigations to approve her appointment. Earlier, her



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appointment was rejected by the respondents. Challenging the same, the petitioner has filed a writ petition before this Court in W.P(MD).No.10451 of 1993. This Court, on 10.03.1994, ordered the writ petition by observing that since the Government has approved the appointment of the petitioner herein as Headmistress from 17.06.1991, no express direction to that effect is necessary. Further, on perusal of G.O.(Ms).No.983, Education Science and Technology (D2) Department, dated 07.10.1994, it reveals that the petitioner has given an undertaking that she is willing to forego her claim for the salary during the year 1986-91 and is ready to reimburse the salary received by her as per the orders of this Court for the period she received from 1986-91.

7. In view of the above, when the petitioner herself was willing to forego her seniority as well as the salary and her appointment was approved only from 17.06.1991, now the claim made by the petitioner before the respondent is contrary to G.O.(Ms).No.983, Education Science and Technology (D2) Department, dated 07.10.1994. Hence, the rejection order need not be interfered with by this Court. Further, the petitioner retired



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from service in the year 2012. After a lapse of 7 years, she made a claim petition before the respondent for inclusion of past services and for pension and retirement benefits which is not sustainable one. Hence, this Writ Petition is dismissed. No costs.

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Index : Yes / No

Speaking Order : Yes / No

ssb

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