



W.P.(MD) No.5163 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.5163 of 2020
and WMP(MD) No.4497 of 2020

J.R.Jawaharlal

... Petitioner

-VS-

1.The Accountant General
Office of the Accountant General
Accounts and Entitlements, Tamilnadu
No.361 Anna Salai
Teynampet, Chennai.

2.The Chief Educational Officer,
Madurai 625 002.

3.The District Educational Officer,
Madurai 625 002

4.Sourashtra Higher Secondary school
Rep. By its Secretary & Correspondent,
No.110 Kamarajar Salai
Madurai 625 008.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 3rd respondent in AaThiMu



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No.854/Aa1/19 dated 14.02.2019 quash the same and direct the respondents to grant pension and other terminal benefits to the petitioner from the date of his resignation on 15.02.1983.

For Petitioner : Mr.R.Krishnamoorthy

For Respondents : Mr.P.Gunasekaran for R1
Mr.S.Saji Bino for R2 & R3
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 14.02.2019 and for a consequential direction to the respondents to grant pension and other terminal benefits to the petitioner from the date of his resignation on 15.02.1983.

2. The petitioner's case is that he joined as BT Assistant in the Government High School, Muthunaickenpatti, Madurai, on 24.07.1969. Thereafter, he was relieved from duty on 13.07.1970. Subsequently he was appointed as BT Assistant in the fourth respondent school on 24.07.1970. He was subsequently promoted as PG Assistant on 29.04.1981 and during



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February, '1983, he left for Nigeria on deputation. He gave his resignation and was relieved on 15.02.1983. His case is that he rendered uninterrupted service of 13 years, 6 months and 14 days in the fourth respondent school. At the time of his resignation, since there was no scheme for pension, the petitioner has not applied for pension. However, after 30.09.2010, following the directions of the Hon'ble Supreme Court, since persons resigned from service became eligible for pension, the petitioner submitted an application on 27.11.2018 to the fourth respondent, which has been forwarded to the third respondent on 12.02.2019. However, the impugned order came to be passed on 14.02.2019 thereby rejecting the claim made by the petitioner, challenging which, the petitioner is before this Court.

3. Per contra, the learned standing counsel for the first respondent would submit that the issue arises in the present writ petition is no longer res integra, which has been decided by the Division Bench of this Court in W.A.No.2590 of 2018 dated 27.06.2019, wherein, it is categorically held that a Teacher, who resigned on 07.07.1994 ie., after 05.06.1981, after knowing about G.O.Ms.No.1015 dated 05.06.1981 and G.O.Ms.No.37 dated



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05.01.1983, will not be entitled for pension. It is further held that the persons, who retired before 05.06.1981 alone will be entitled for pension. The petitioner herein, who retired on 15.02.1983, ie., after the crucial date, is not entitled for pension and hence, the case of the petitioner is liable to be rejected and prays for dismissal of the writ petition.

4. Heard the learned counsel for the petitioner, learned counsel for the first respondent and the learned Special Government Pleader for the respondents 2 and 3.

5. The appointment of the petitioner as BT Assistant and promotion as PG Assistant and his resignation on 15.02.1983 are not in dispute. It is to be noted that the Government passed G.O.Ms.No.37 dated 05.01.1983 stating that the persons retired prior to 05.06.1981 are eligible to be considered for pension. When similarly placed persons approached this Court, this Court passed an order in favour of the petitioners therein. However, on appeal, the Division Bench in the writ appeal (supra) has held as follows:



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“6. A perusal of the above mentioned Government Order Ms.No.1490, Education, dated 26.12.1985, would show that persons who resigned or retired, prior to 05.06.1981, would be given pensionary benefits, because they could not have anticipated pensionary benefits. The letter dated 26.12.1985 makes it clear that those persons, who have resigned, after the crucial date that is 05.06.1981, will not be allowed any pensionary benefits.

...

14.The writ petitioner/first respondent herein, who resigned on 07.07.1984 that is much after 05.06.1981 and who knew about G.O.Ms.No.1015, Education Department, dated 05.06.1981 and G.O.Ms.No.37, Education Science and Technology Department, dated 05.01.1983, is not entitled to pension. It should be deemed that he resigned on 07.07.1984, knowing fully well all the consequences of resignation. The judgments relied on by the respondent cannot be made applicable, because of the specific provision in the Government orders extracted supra.”

6. However, in the present case, the petitioner tendered his



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resignation only on 15.02.1983, which was after the date of passing of the Government order and hence, in view of the categorical finding rendered by the Division Bench, the petitioner is not entitled to be considered for promotion. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

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Index : Yes/No

Internet : Yes

RR

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M.DHANDAPANI, J.

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