



W.P(MD)No.2580 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.2580 of 2019

R.Chandrasekaran

... Petitioner

Vs.

1.The Secretary to Government,
School Education Department,
Government of Tamilnadu,
Fort.St.George, Chennai-9.

2.The Accountant General,
(Accounts & Entitlement),
Tamilnadu Office,
361, Anna Salai, Chennai-18.

3.The Director of Pension,,
259, Anna Salai Block 3 - II Floor,
D.M.S.Compound, Teynampet,
Chennai-6.

4.The Director of Education,,
DPI Campus, Chennai.

5.The District Educational Officer,
Madurai.

6.The Correspondent,,
Sourashtra Higher Secondary School,
110, Kamarajar Salai, Madurai-9.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to issue a separate G.O. in favour of the petitioner by considering the recommendations made by the 5th respondent through his letter in Na.Ka.No. 1570 / Aa4 / 2017 dated 30/11/2017 so as to enable the 2nd respondent to issue pension to the petitioner for the service rendered by him during the period between 05/06/1964 to 30/07/1975 with the 6th respondents school.

For Petitioner : Mr.S.Arivalagan

For Respondents : Mr.S.Shaji Bino,
Spl. Govt. Pleader for R1, R3 to R5.
Mr.P.Gunasekaran,
Standing Counsel for R2.
Mr.D.Nallathambi for R6.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner joined Nadar Saraswathi High School, Theni as B.T. Assistant on 05.06.1964. He was working there for one year. Then he got appointment in Sourashtra Higher Secondary School, Madurai and joined the that school on 09.06.1965 as B.T. Assistant. He worked there till 30.06.1975. He resigned for personal reasons. The petitioner is now aged about 80 years. In the year 2015, he sent a representation seeking payment of minimum



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pension. According to him, even if he had resigned since it was prior to the crucial dated ie., 05.06.1981, notwithstanding his resignation, he is eligible to get pension. The petitioner's request was not considered. When the petitioner relied on the case of one Subbiah, he was informed that he should also get special government order passed as in the case of Subbiah and approach the authorities. Dissatisfied with the aforesaid response, the present writ petition came to be filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He placed heavy reliance on the decision of the Hon'ble Division Bench reported in **(2001) 3 M.L.J. 430 (Government of Tamilnadu Vs. S.V.Paul Jayaraj)**. He called upon this Court to allow the writ petition as prayed for.

4.The learned counsel for the respondents submitted that no case has been made out for grant of relief. The learned standing counsel for the second respondent relied on the recent decision rendered in W.P.(MD)No.1373 of 2016 dated 21.09.2022 (R.Nandhakumar Vs. The Secretary to Government and Others). He submitted that the legal position has been clarified therein and in the light of said order, the present writ petition deserves to be dismissed.



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5.I carefully considered the rival contentions and went through the materials on record. The writ petitioner was a teaching staff in an aided school. As rightly pointed out by the learned standing counsel for the second respondent, his case is governed by the Tamilnadu Non-Government Teachers Pension Rules, 1958. Only if the petitioner can show that he falls within the scope of Rule 12(a), he is eligible for payment of pension or gratuity. Rule 12(a) of the Tamilnadu Non-Government Teachers Pension Rules, 1958 is as follows:-

“12. (a) A teacher shall be eligible for payment of pension or gratuity, as the case may be -

(i) on retirement by reason of his attaining the age of superannuation under rule 9, or on voluntary retirement after completing a qualifying service of 30 years, or

(ii) on discharge due to the abolition of the post, or

(iii) on discharge due to closure of schools or consequent on the withdrawal of recognition of Schools, or

(iv) on discharge due to invalidation on medical grounds, or

(v) on retirement on the date of commencement of the school-year just preceding his completion of 55 years or 60 years as the case may be, in order to avoid dislocation in the middle of the school-year, or

(vi) on discharge due to compulsory retirement as a measure of punishment.”



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6.The petitioner does not fall under any of the aforesaid categories. This is because the petitioner resigned from service. Of course, the Hon'ble Division Bench in the decision reported in **(2001) 3 M.L.J. 430 (Government of Tamilnadu Vs. S.V.Paul Jayaraj)** had held that in view of G.O.(Ms) No.37, Department of Education Science and Technology, dated 05.01.1983, even a person who resigned prior to the cut off date would also be eligible for pension. Then the question that arises is whether the petitioner is entitled to invoke G.O. (Ms) No.37. In the aforesaid government order, the crucial date from which pension scheme had been introduced for various categories has been set out. The table reads as under:-

		Date from which pension scheme was introduced	Education GO Ms. No. Date	Those who retired before crucial dates allowed pension from	Edu. GO. No. & Date
I	(a) Teaching Staff of Aided and Local body (Aided for purpose of retirement benefits always includes recognized "un aided" Schools also. Including Anglo Indian Schools)	1-4-55	<u>1109</u> 31-5-58	1-3-68	<u>1505</u> 24-9-68
	(b) Teaching staff non-Government Schools in the transferred area	1-11-58 to 1-1-63 before 1-11-56	<u>853</u> 16-4-62	1-3-68 1-5-77	<u>1505</u> 24-4-68 <u>1394</u> 76-77



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ii	Non-teaching staff of Aided Schools	1-4-72	627/11-5-72	5-6-81	<u>1015</u> 5-6-81
iii	(a) Aided Colleges – teaching staff	1-4-62	<u>1671</u> 16-7-63	1-3-68	<u>1505</u> 24-9-68
	b) Aided Colleges – Non teaching staff	1-4-76	<u>2213</u> 11-10-76	5-6-81	<u>1015</u> 5-6-81
iv	(a) Aided Technical Educational Institutions Teaching staff	1-1-75	<u>650</u> 23-4-75	5-6-81	<u>1015</u> 5-6-81
	(b) Aided Technical Educational Institutions Non - Teaching staff	1-4-77	<u>74</u> 12-1-78	5-6-81	<u>1015</u> 5-6-81
v	Regional Engineering College Tiruchirappalli (all Staff)	1-1-75	1777/31-7-77	5-6-81	<u>1015</u> 5-6-81

7.The petitioner would fall under category I(a). The crucial date for the petitioner's category would be 31.05.1958. A person who resigned subsequent to the crucial date cannot demand payment of pension.

8.A learned Judge of this Court vide order dated 21.09.2022 in W.P.(MD)No.1373 of 2016 held as follows:-

“8.On perusing the G.O.Ms.No.1015, dated 05.06.1981, it is stated in Serial No.IV (a). The crucial date from which the pension scheme is introduced for Aided Technical Educational – Teaching Staffs is stated as 01.01.1975. The G.O. also mentioned that this was



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granted through G.O.Ms.No.650 dated 23.04.1975. On perusing the G.O.Ms.No.650 it is stated as under:

“The Government have decided to extend to the teaching staff of Aided Technical Educational Institutions (i.e. Aided Engineering Colleges and Aided Polytechnics) with effect from 01.01.1975, the same retirement benefits as are admissible from time to time. Pension 2. The teaching staff retiring from Aided Technical Educational Institutions on or after 01.01.1975 shall be allowed pension (but not gratuity at the rates admissible under the Liberalized Pension Rules applicable to State Government servants from time to time”

Therefore, as rightly pointed out by the learned Counsel for the 3rd respondent, the cutoff date / crucial date is only 01.01.1975 and not 05.06.1981. The Government has followed it consistently. Even in G.O.Ms.No.37, dated 05.01.1983, wherein it is stated the pension was disbursed from 05.06.1981 only. In the column “Date from which pension scheme was introduced” it is stated as 01.01.1975 only. Since in column 4, in the heading it is stated “Those who retired before crucial dates are allowed pension” which means the pension was disbursed from the date mentioned in the column i.e. from 05.06.1981 the monetary benefits were disbursed. Therefore, the cutoff date is only 01.01.1975. The reading of G.O.Ms.No.650 dated 23.04.1975, G.O.Ms.No.1015 dated 05.06.1981 and G.O.Ms.No.37 dated 05.01.1983 consistently states that the cutoff date is only 01.01.1975. The petitioner had mistook and misread the G.O.Ms.No.37, dated 05.01.1983.

9. Therefore, this Court is of the considered opinion that the submissions of the 3rd respondent is in accordance to the said above G.O.s. The petitioner has not made out any case. Hence the petitioner is not entitled to pension.”



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9. Respectfully adopting the very same approach, I hold that the petitioner has not made out any case for grant of relief. The writ petition is dismissed. No costs.

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Index : Yes / No
Internet : Yes/ No
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