



W.P(MD)No.23706 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.23706 of 2022

S.Mohamed Hussain

... Petitioner

Vs.

1.The Principal Secretary to Government,
School Education Department,
Secretariat,
Chennai-600 009.

2.The Director of Elementary School Education,
Directorate of Elementary School Education,
DPI Complex,
Nungambakkam,
Chennai-600 006.

3.The Chief Educational Officer,
Panagal Building,
Opp to Jupiter Theatre,
Thanjavur-613 001.

4.The Block Educational Officer,
Thiruvaidaimaruthur Block,
Kumbakonam (via),
Thanjavur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorarified Mandamus, to call for the



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records of the fourth respondent ie., the Block Educational Officer, Thiruvaidaimaruthur passed in his proceedings No.R.C.No.1538/A2/2022, dated 28.09.2022 and quash the same and consequently, direct the first and second respondents, ie., the Principal Secretary to Government, School Education Department, Chennai and the Director of Elementary School Education, Chennai to arrange to send correct pension proposals of the petitioner in a complete shape as per Rule 43(3) of the Tamil Nadu Pension Rules, 1978 to the Accountant General, Chennai, within a specified time frame that may be fixed by this Court.

(This Court vide order dated 08.11.2022 amend the prayer in W.M.P.(MD)No.19295 of 2022)

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.N.Sathees Kumar
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner was appointed as Higher Grade Teacher in Panchayat Union School, Thukachi on 21.06.1974. He became a Secondary Grade Teacher on 01.12.1976. He worked till 02.04.1984. He had gone on medical leave from 03.04.1984. He applied for pension for the first time only in the year 2018. The proposal was generated. The office of the accountant general vide communication dated 16.05.2018 addressed to the Additional



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Assistant Elementary Education Officer, Thiruvidadaimarudur made it clear that the petitioner's request for invalid pension was not supported by the medical report from the competent medical board. Thereupon, the petitioner's case was referred to medical board and the medical board had opined that the petitioner's claim of illness is stated to be genuine. The report of the medical board given on 14.09.2018 has been enclosed in the type set of papers. The headmaster of the school concerned had made an endorsement that the petitioner was on leave on loss of pay for the period from 1984 till 31.08.2006. However, the petitioner's request was rejected by the proceedings dated 28.09.2022 primarily on the ground that qualifying service put in by the petitioner was less than ten years. This proceeding is put to challenge in this writ petition.

3. When the matter was taken up for hearing, the learned counsel appearing for the petitioner drew my attention to Rule 43(3) of Tamil Nadu Pension Rules, 1978. It reads that in calculating the length of qualifying service, fraction of a year equal to three months and above shall be treated a completed one half year and reckoned as qualifying service. If the aforesaid rule is applied, then, obviously, the petitioner's qualifying service will come to minimum 10 years service. Therefore, the order impugned in the writ petition is set aside. It is accordingly set aside.



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4. However, there is one other impediment for the writ petitioner. The learned Additional Government Pleader appearing for the respondents drew my attention to the proceedings dated 31.03.2021 issued by the Chief Educational Officer, Thanjavur raising a host of queries. The learned Additional Government Pleader would point out that unless proceedings are issued indicating the retirement of the petitioner and regularising his period of absence, the question of sanctioning pension will not arise. He would also add that the impugned order was passed by the Block Educational Officer without reference to the aforesaid proceedings which is anterior in point of time.

5. Even while setting aside the order impugned in the writ petition, the respondent No.4 is directed to act on the proceedings dated 31.03.2021 issued by the Chief Educational Officer, Thanjavur. The right of the petitioner to receive pension will depend on the response to the queries raised by the Chief Educational Officer, Thanjavur. The petitioner is aged about 73 years. I therefore direct the respondents 1 to 3 to look into the issue and pass final order on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

6. The Writ Petition is disposed of accordingly. No costs.

08.11.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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