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W.P.(MD)No.1373 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1373 of 2016

R.Nandakumar

... Petitioner

vs.

1.The Secretary to Government,
Higher Education (C1) Department,
Government of Tamilnadu,
Secretariat, Chennai – 600 009.

2.The Commissioner and Director of
Technical Education,
Government of Tamil Nadu,
Guindy, Chennai – 600 025.

3.The Accountant General (A&E),
Tamil Nadu, Chennai – 600 018.

4.The Principal,
Sankar Polytechnic,
Tirunelveli – 627 357.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to



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the impugned communication in Letter No.20893/C1/2010-21, dated 02.02.2015, on the file of the respondent no.1 and to quash the same as illegal and consequently, to direct the respondent no.1 to approve the grant of relief of Teacher's Pension to the petitioner.

For Petitioner	: Mr.T.Lajapathi Roy
For R1 & R2	: M/s.D.Farjana Ghoushia Special Government Pleader
For R3	: Mr.P.Gunasekaran

ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to quash the impugned communication in Letter No.20893/C1/2010-21, dated 02.02.2015 and consequently to direct the 1st respondent to approve the grant of relief of Teacher's Pension to the petitioner.

2. The petitioner was serving as Junior Instructor in Sankar Polytechnic College, a Government Aided Technical Educational Institution from 07.07.1965 to 14.09.1975. The petitioner had resigned on 13.09.1975 and joined the Central Institute of Road Transport, Pune, an autonomous organization and retired as a



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Scientist in the year 2001.

3. The contention of the petitioner is that he is neither receiving any pension from the earlier service and nor from the subsequent service. In the year 2004, the petitioner attained 61 years of age and he came to know that he is eligible for pension by virtue of pensionable service for more than 10 years in Sankar Polytechnic and the petitioner approached the Principal of the Polytechnic and the Principal, after verification of records had recommended for the payment of Pension and submitted a proposal to 2nd respondent. The 2nd respondent forwarded the same to the 3rd respondent Accountant General (A&E). However, the 3rd respondent rejected the claim stating that the petitioner had resigned from the post and hence, he is not eligible for pension. The petitioner submitted a detailed letter, dated 12.09.2006, to 3rd respondent citing the provisions of G.O.Ms.No.1015 dated 05.06.1981, G.O.No.1196 dated 15.07.1975 and G.O.No. 37 dated 05.01.1983 and requested to consider the claim of pension with effect from 14.09.1975. However, the 3rd respondent again rejected the representation,



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vide his proceedings, dated 13.02.2007. Aggrieved over the same, the petitioner preferred a writ petition in W.P.(MD)No.21919 of 2010 and this Court, vide order, dated 22.11.2010, by referring to Division Bench judgment rendered in ***Government of Tamil Nadu Vs. S.V.Paul Jayaraj (2001) 3 MLJ 430***, directed the petitioner to submit a representation within two weeks and thereafter, directed the respondents to consider the petitioner's case in the light of the judgment stated supra within a period of three months. Aggrieved over the same, the Accountant General preferred a writ appeal in W.A.No.1626 of 2011, in the Division Bench, vide order, dated 10.10.2011, directed the respondents to consider in light of the ratio decided by the Honourable Supreme Court in SLP and the Division Bench of this Court and also considering the Government orders issued from time to time. Based on the order, the petitioner submitted a representation, dated 27.02.2012 and the respondents passed the impugned order, dated 02.02.2015. Aggrieved over the same, the present writ petition is filed.

4.The respondents have filed counter affidavit stating that the petitioner has



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resigned the service on 14.09.1975. The G.O.Ms.No.1015, dated 05.06.1981, has fixed the cut-off date as 01.01.1975 and has stated that any employee who had retired prior to 01.01.1975, is eligible for pension. However, the person who have retired after 01.01.1975, is not eligible for pension. In the present case, the petitioner has resigned on 14.09.1975, which is after the cut of date and as per the existing G.O.s, the petitioner is not entitled to. Moreover as per Rule 23 of Tamil Nadu Pension Rules the petitioner is not entitled to pension.

5. Heard Mr.T.Lajapathi Roy, learned Counsel appearing for the petitioner, M/s.D.Farjana Ghoushia, learned Special Government Pleader appearing for first and second respondents and Mr.P.Gunasekaran, learned Counsel appearing for third respondent and perused the records.

6. When the writ petition was taken up for hearing, the learned Counsel appearing for the petitioner submitted that the cut-off date fixed as per G.O.No.37 is 05.06.1981. However, the learned Counsel appearing for the 3rd respondent submitted that 05.06.1981 is the date from which the pension was disbursed to the



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employees. However, the cut-off date is mentioned as 01.01.1975 only.

7. In order to ascertain the cutoff date the learned Counsel appearing for the third respondent was directed to produce the relevant G.O.s. When the case was taken up today the Learned Counsel produced the relevant G.O.s before this Court.

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 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



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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



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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.

10. Therefore, the writ petition is dismissed. No costs.

Index : Yes / No

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Internet : Yes

Tmg

To

1.The Secretary to Government,
Higher Education (C1) Department,
Government of Tamilnadu,
Secretariat, Chennai – 600 009.

2.The Commissioner and Director of
Technical Education,
Government of Tamil Nadu,
Guindy, Chennai – 600 025.



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S.SRIMATHY, J

Tmg

Note:

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