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W.P.No.13618 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.13618 of 2021

K.Rajalakshmi

... Petitioner

Vs.

1.The Secretary,
School Education Department,
Government of Tamil Nadu,
Fort St.George,
Chennai 600 009.

2.The Director of School Education,
DPI Campus,
Nungambakkam,
Chennai 600 034.

3.The Headmistress,
Government Girls Higher Secondary School,
Poonamallee,
Chennai 600 056.

4.The Principal Accountant General (A&E),
361, Anna Salai,
Chennai 600 018.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the order passed by the fourth respondent in No.P11/4/11128010/ADK



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dated 20.10.2020 and quash the same and consequently direct the fourth respondent to approve the pension of the petitioner taking into account 50% of her service rendered on consolidated pay both as Noon Meal Organiser and as B.T.Assistant during the period from 01.02.1983 to 31.05.2006 along with her entire service on regular basis as B.T.Assistant from 01.06.2006 to the date of her retirement on 30.04.2015 and to pay pension and other terminal benefits accordingly.

For Petitioner : Mr.R.Natarajan

For Respondents : Mr.G.Nanmaran, Spl. Govt. Pleader

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus, to call for the records of the order passed by the fourth respondent in No.P11/4/11128010/ADK dated 20.10.2020 and quash the same and consequently direct the fourth respondent to approve the pension of the petitioner taking into account 50% of her service rendered on consolidated pay both as Noon Meal Organiser and as B.T.Assistant during the period from 01.02.1983 to 31.05.2006 along with her entire service on regular basis as B.T.Assistant from 01.06.2006 to the date of her retirement on 30.04.2015 and to pay pension and other terminal benefits accordingly.

2. Heard Mr.R.Natarajan, learned counsel for the petitioner and



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Mr.G.Nanmaran, learned Special Government Pleader for the respondents.

3. The learned counsel for the petitioner submitted that the petitioner was appointed as Noon Meal Organiser on 01.02.1983. On 01.01.1996, the petitioner's service was regularised and the petitioner joined as B.T.Assistant in the year 2004. Thereafter the petitioner retired from service in the year 2015 on attaining the age of superannuation. It is claimed by the petitioner that 50% of her services rendered under the non-provincialised post can also be counted for qualifying service for the purpose of giving her pension in accordance with G.O.Ms.408, Finance and Pension Department dated 25.08.2009 of the Government of Tamil Nadu.

4. The learned Special Government Pleader for the respondents submitted that under G.O.Ms.No.408 dated 25.08.2009, 50% services of an individual rendered in any non-provincialised service can be taken into account, provided the petitioner got absorbed in regular service on or before 01.04.2003. The learned Special Government Pleader further



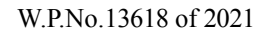
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submitted that the petitioner's service as Noon Meal Organiser was never regularised even though the petitioner was given with the time scale of pay. The petitioner has not produced any order to show that her services have been regularised as on 01.01.1996.

5. The learned counsel for the petitioner claims that giving time scale itself should be taken as regularisation. The attention of this Court was drawn to the judgment of this Court rendered in W.P.No.4189 of 2018, dated 14.07.2022, wherein, it is held as under:

"30. In paragraph 45(iii), it is stated by the Full Bench that, in case a Government employee/servant had also rendered service in non provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularized before 01.04.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.

31. Since this being the law declared by this Court by a authoritative pronouncement i.e., Full Bench referred to above that is having the binding



32. *If we apply the said principle in the present facts of the case, where the petitioner worked as Noon Meal Organizer from 26.05.1985 till 08.07.2003 and on the next day, she joined in the post as Junior Assistant on 09.07.2003 and after rendering service including Bill Collector in the third respondent Department, she retired on superannuation.*

33. *By virtue of G.O.(Ms.)No.2 referred to above dated 03.01.1996, where the special consolidated pay has also been allowed.*

34. Therefore the question of absorption in the regular service which has already been taken place well before 01.04.2003 i.e., cut-off date does not arise."

6. In the said case, it is held that the question of absorption in regular service which has already been taken place well before 01.04.2003 i.e., cut-off date does not arise. However, the learned counsel for the petitioner interprets the observation made in the said case that the



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Court has recognised the date of awarding time scale of pay itself as the date for regularisation. It is further submitted that the petitioner has already been regularised on 01.01.1996. In that case, it is appropriate for the respondents to consider the representation of the petitioner in the light of the order made in W.P.No.4189 of 2018 and pass appropriate orders.

7. In the result, this Writ Petition is disposed and the respondents are directed to consider the representation of the petitioner in the light of the order made in W.P.No.4189 of 2018 dated 14.07.2022 and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order.

22.12.2023

Index : Yes

Internet : Yes/No

Speaking / Non-speaking

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R.N.MANJULA, J.

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