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W.P.No.16755 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

CORAM:

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.16755 of 2021
and W.M.P.No.17718 of 2021

A.Sheela

/vs/

Petitioner

1. The State of Tamilnadu,
Rep. by its Principal Secretary,
Department of Higher Education,
Fort St. George, Chennai – 600 009.

2. The Vice-Chancellor,
Thiruvalluvar University,
Serkadu, Vellore – 632 115.

3. Thiruvalluvar University,
Rep. by its Registrar,
Serkadu, Vellore – 632 115.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records pertaining to the order dated 24.09.2019 passed by the first respondent in Letter No.11190/K2/2019-1 and the order dated 19.03.2021 in No.TVU/F/Pension/2020-2021/2462 passed by the third respondent regarding sanction of family pension and GPF and recovery of wages / subsistence allowance, quash the same in so far as fixing the age of retirement of the petitioner husband as 58 years and taking the date of his



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retirement as 31.03.2017 and settling the petitioner the terminal benefits on that basis and in so far as the recovery of Rs.8,10,199/- towards salary and subsistence allowance paid to the petitioner's husband during his pension and in so far as deducting a sum of Rs.8,90,246/- towards Income Tax by treating the entire arrears of family pension as taxable income as on the date of payment, instead of taking his age of retirement and consequently direct the respondents 2-3 to pay and settle in the service benefits for the period from 01.04.2017 to 26.02.2018 after adjusting the subsistence allowance already paid to the petitioner's husband and to pay and settle all the terminal benefits based on the salary payable to the petitioner's husband as on 26.02.2018, by taking the age of retirement of petitioner's husband as 60 years and date of his retirement as 26.02.2018, after adjusting the amounts already paid to the petitioner and to refund the petitioner the excess amount deducted towards Income Tax, together with interest, award costs.

For Petitioner ... No appearance

For Respondents ... Mr.P.Sanjai Gandhi
Government Advocate for R1

Mr.M.C.Swamy,
Standing Counsel for R3

No appearance for R2

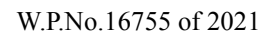


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ORDER

The petitioner's husband worked as Director of Physical Education in Tiruvallur University. The petitioner had challenged the impugned order by stating that the first respondent failed to consider the retirement age of the petitioner's husband who was working as Physical Education Teacher as 60 years as notified by UGC regulation. As per the Statute No. 4(c) of Section 1 of Statutes regarding the Gratuity cum Pension cum Provident Fund cum Insurance Scheme for Teachers, the retirement age of the teachers of Madras University is completion of 60 years. Since the petitioner has claimed that his husband's retirement age ought to have been treated as 60 instead of 58, the consequential and attendant benefits ought to have been granted.

1.2 However the first respondent passed an order on 24.09.2019 by considering the age of retirement of the petitioner's husband as 31.03.2017 only for the purpose of sanctioning the family pension, retirement benefits, etc., and accordingly the petitioner has also accepted the same and received all the terminal benefits. Subsequently, the petitioner had filed this petition to fix the retirement age of the petitioner as 60 years and for a direction to



2. The learned counsel for the second respondent University submitted that the retirement age of 60 years is applicable only for teaching staff and the petitioner's husband who was working as Director of Physical Education cannot come under the purview of teachers; further the petitioner was under suspension during the relevant period and even before the disciplinary proceedings are completed he died on 26.02.2018; hence the proceedings have become abated and his superannuation is considered as his completion of age of 58 years and thus he is deemed to have retired from service on 31.03.2017. In this regard the petitioner has already filed a Writ Petition in W.P.No.4149 of 2021 for disbursal of the terminal benefits of her husband and accordingly all the benefits have been settled. At that point of time, the petitioner did not claim that the age of retirement of her husband should be treated as 60 years and in this petition she has not stated about the earlier proceedings relating to W.P.No.4149 of 2021. Hence the



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present writ petition should be dismissed.

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3. The petitioner has filed this petition by misconstruing the laws and without proper consultation. The husband of the petitioner was working as Director of Physical Education and he has not been considered as teaching staff as per the Bharathidasan University Statutes. In respect of non-teaching staff, the age of superannuation is 58 years. The first respondent has passed the impugned order only by taking into consideration of the rules applicable to the petitioner's husband. However, it seems that the present petition has been filed by the petitioner as an after thought and after being misguided without properly understanding the rules and regulations. The petition lacks merits.

4. In the result, the Writ Petition is dismissed. No costs. Connected miscellaneous petition is closed.

19.10.2023

Index: Yes / No
Speaking order / Non-speaking order
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R.N.MANJULA ,J.

bkn

To:

1. Principal Secretary,
Department of Higher Education,
Fort St. George, Chennai – 600 009.

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