



WEB COPY



W.P.No.23420 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.23420 of 2014

and

M.P.No 2 of 2014

Rajula

.... Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Secretariat,
Chennai – 9.

2. The Director of Elementary Education,
O/o. The Director of Elementary Education,
D.P.I. Campus, College Road,
Chennai – 6.

3. The District Elementary Educational Officer,
Erode,
Erode District.

4. The Assistant Elementary Educational Officer,
Sathyamangalam,
Erode District.

.... Respondents



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PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings in ஐ.மு.எண்.454/ஆ3/12 dated 25.05.2012 and quash the same as illegal and consequentially to direct the respondents to condone the break in service i.e., 01.12.2006 and further direct the respondents to allow the petitioner to continue in the old pension scheme in T.P.F.No.337923 within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Srinivasan

For Respondent : Ms.Akhila Rajendran
Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 25.05.2012 in ஐ.மு.எண்.454/ஆ3/12 passed by the 3rd respondent, thereby the petitioner was denied for old pension scheme.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

3. According to the petitioner, initially the petitioner was



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appointed as Secondary Grade Teacher in Government Aided School on 07.03.2002 at P.A.M.Middle School, Pallavaram, Chennai. Thereafter, she was sponsored by the District Employment Office for appointment to the post of Secondary Grade Teacher for the year 2006-2007 by direct recruitment. Therefore, she resigned her earlier teacher post and she was appointed to the post of Secondary Grade Teacher in the Panchayat Union Primary School, Millmadu, Sathyamangalam Post, Erode District. Based on the Employment Seniority, she was called for certificate verification by the District Elementary Educational Officer, Coimbatore, by his letter dated 27.11.2006. She appeared with all original certificates on 01.12.2006. She was appointed as Secondary Grade Teacher by the proceedings dated 01.12.2006. Though her pension account was opened earlier, after her new appointment, she was not allowed to continue with old pension scheme. Since, she was appointed as Secondary Grade Teacher in the regular basis only on 01.12.2006 and joined duty on 04.12.2006.

4. On perusal of the counter filed by the third respondent



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revealed that originally the petitioner was appointed as Secondary Grade Teacher in Government Aided School on 07.03.2002 at P.A.M.Middle School, Pallavaram, Chennai. Thereafter, she had resigned her earlier post and she was recruited as Secondary Grade Teacher and joined in the Panchayat Union Primary School, Millmadu, Sathyamangalam Post, Erode District on 04.12.2006. After a period of eight years, she submitted an application for appointment of pension scheme and she was allotted pension scheme under the new scheme. The Government of Tamil Nadu had issued a G.O.Ms.No.430, dated 06.08.2003 amending the Tamil Nadu Pension Rules 1978. Accordingly, the persons had recruited after 01.04.2003 are not entitled to get pension and they will be governed under new Contributory Pension Scheme introduced based on the pension contribution by the employee recruited after 01.04.2003. Therefore, the petitioner cannot claim that she was appointed in the pensionable service as the appointment of the petitioner is after 01.04.2003.

5. Further, by G.O.Ms.No.304 (Finance) Department dated



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27.05.2004 made amendments. Accordingly, the General Provident Fund Rule will not be applicable to the Government servants recruited on or after 01.04.2003 to the services and posts in connection with the affairs of the State either temporarily or permanently. Accordingly, the General Provident Fund amount need not be recovered from the Government servant recruited on or after 01.04.2003.

6. Therefore, the third respondent rightly rejected the request made by the petitioner and this Court finds no infirmity or illegality in the proceedings in ஓ.மு.எண்.454/ஆ3/12 dated 25.05.2012 passed by the third respondent. Accordingly, this Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
Lpp

G.K.ILANTHIRAIYAN, J.



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