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W.P.No.28609 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.28609 of 2023
and W.M.P.Nos.28158 & 28160 of 2023

Dhana Mary. P

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
School Education Department,
Fort St. George, Chennai – 09.
- 2.The Chief Educational Officer,
Cuddalore, Cuddalore District.
- 3.The District Educational Officer,
District Educational Office,
Viruthachalam, Cuddalore District.
- 4.The Block Educational Officer,
Cuddalore, Cuddalore District.
- 5.The Correspondent,
R.C. Sacred Heart Primary School,
Vadakkupalayam, Cuddalore District – 608 701.
- 6.Accountant General,
(Accounts and Entitlements),
Tamil Nadu, Chennai – 18.

... Respondents



W.P.No.28609 of 2023

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned proceedings of non-consideration of valid pension for the petitioner by the 3rd respondent in Na.Ka.No.260/A4/2022 dated 19.01.2023 and quash the same as illegal, arbitrary, discriminatory and consequentially, to direct the 2nd respondent to execute the order in the appeal Na.Ka.No.5537/E4/2021 dated 12.08.2021 that considers valid retirement pension for the petitioner who retired on 21.10.2018 under VRS.

For Petitioner : Mr.J. Arokhiaaraj

For R1 to R4 : Mr.P. Ganesan,
Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 to 4.

2. The petitioner herein had joined the service of the respondent Department on 23.03.1998. After completion of 20 years of service, she had submitted her application on 24.07.2018 seeking for voluntary retirement under the Voluntary Retirement Scheme. After about 4



W.P.No.28609 of 2023

years, the impugned order dated 19.01.2023 has been passed, stating that the application cannot be acted upon.

3. Fundamental Rule 56(3) stipulates that when a Government Servant attained the age of 50 years or ought to have completed 20 years of service, can retire from service by giving notice of not less than three months in writing direct to the Appointing Authority with a copy marked to his immediate superior Officer for information. Before giving such notice, he requires to satisfy that he has completed the required number of qualifying service.

4. The Government in G.O. (Ms) No.350, Personnel and Administrative Reforms (s) Department, dated 07.10.1991, had issued certain guidelines and in clause 3(f) of the said Government Order, it is stated that the Appointing Authority shall issue orders before the date of expiry of notice i.e. before three months either accepting the voluntary retirement or otherwise, the Government servant shall be deemed to have been retired voluntarily from service at the end of notice period.



W.P.No.28609 of 2023

WEB COPY

5. In other words, the moment, a Government employee submits an application seeking for voluntary retirement and the Appointing Authority fails to respond to the application within 3 months, the application given by the employee is deemed to have been approved by the Appointing Authority. In the instant case, it is not in dispute that the petitioner had submitted her application on 24.07.2018 itself and thus, on completion of three months from 24.07.2018, her application is deemed to have been accepted and approved by the concerned Appointing Authority.

6. In view of the same, the present impugned order, rejecting the petitioner's application, cannot be sustained. In the result, the impugned order dated 19.01.2023 passed in Na.Ka.No.260/A4/2022, is hereby quashed. Consequently, there shall be a direction to the third respondent herein, to pass appropriate orders notionally retiring the petitioner under the Voluntary Retirement Scheme, with effect from completion of three months from 24.07.2018 and disburse all the monetary benefits including pensionary benefits, within a period of eight (8) weeks from the date of receipt of a copy of this order.



W.P.No.28609 of 2023

7. With the above directions, this Writ Petition stands allowed.

No costs. Connected miscellaneous petitions are closed.

16.10.2023

Index: Yes

Speaking order

Internet: Yes

Neutral Citation: Yes

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To

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Fort St. George, Chennai – 09.
2. The Chief Educational Officer,
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3. The District Educational Officer,
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W.P.No.28609 of 2023

M.S.RAMESH,J.

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W.P.No.28609 of 2023

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