



W.A(MD).No.1629 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2023

CORAM

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.A(MD).No.1629 of 2023

K.Chithra Devi

... Appellant

Vs.

- 1.The State of Tamil Nadu,
Rep.by its Secretary,
Department of Education,
Fort St.George,
Chennai-600 009.
- 2.The Joint Director of School Education
(Secondary Education),
College Road,
Chennai-6.
- 3.The Chief Educational Officer,
Virudhunagar District,
Virudhunagar.
- 4.The District Educational Officer,
Srivilliputhur,
Virudhunagar District.
- 5.R.V.Thevar Memorial Girls High School,
Cholapuram, Rajapalayam,
Virudhunagar District.
Rep.by its Secretary.

... Respondents



W.A(MD).No.1629 of 2023

PRAYER: Writ Appeal filed under Section 5 of Limitation Act against the order passed in W.P(MD).No.4490 of 2020 dated 09.12.2022.

For Appellant : Mr.K.K.Kannan
For R1 to R4 : Mr.D.Sadiq Raja
Additional Government Pleader

JUDGMENT

[Judgment of the Court was made by D.BHARATHA CHAKRAVARTHY, J.]

This Writ Appeal is filed by the unsuccessful writ petitioner in W.P(MD).No.4490 of 2020 feeling aggrieved by the order of the learned Single Judge of this Court dated 09.12.2022 in dismissing the writ petition filed by her.

2. It is the case of the writ petitioner that she was appointed as Headmaster in the fifth respondent Aided School with effect from 17.06.1986. When her appointment was sent for approval, the same was not approved by the Department as the petitioner did not have the mandatory requirement of five years of service. However, the proposal was again re-considered on a specific undertaking given by the petitioner that she is willing to forego her claim for the salary during the year 1986-1991 and considering the fact that she has become subsequently eligible, her appointment was approved with effect from



W.A(MD).No.1629 of 2023

the year 1991. Thereafter, the petitioner continued as such in service and retired from service on 31.08.2012. After her retirement, she made a representation to consider her service as Headmaster from the year 1986 to 1991, for the purpose of pension which was rejected by an order dated 06.02.2020. Therefore, the writ petition was filed challenging the said order and to consequently take into account the said five year period of service and for grant of all consequential monetary benefits, in the light of an earlier judgment of the Hon'ble Division Bench of this Court in W.A(MD).Nos.291 of 2008 etc., The learned Single Judge considered the case of the petitioner and specifically considering the undertaking given by the petitioner at the time of approval of her appointment to forego the said period of five years of service and that after accepting the same, the petitioner completed her service and in fact, superannuated in the year 2012 and seven years after the superannuation, for the first time, made the claim by making a representation, the learned Single Judge dismissed the writ petition.

3. Mr.K.K.Kannan, the learned counsel appearing on behalf of the appellant submitted that the matter is squarely covered by the earlier judgement of the Hon'ble Division Bench of this Court in W.A(MD).Nos.291 and 292 of 2008 and therefore, the benefit should be extended to the appellant also.



W.A(MD).No.1629 of 2023

4. We have carefully considered the said submission and perused the judgment of this Court in W.A.(MD).Nos.291 and 292 of 2008. On a perusal thereof, we do not find any consideration of undertaking given by the writ petitioners therein to forego their salary and services for the period. This apart, the facts in those cases are totally different, whereunder, the services were taken into account only for the purpose of promotion but not taken into account for the purpose of fixation of pay scales and for pensionary benefits. We do not find any similarity between the facts of the said case and the present case. On the facts of the present case, when the petitioner has given a specific undertaking to forego any claim of the benefits of service from the year 1986 to 1991 and when the petitioner has not further chosen to question or pray for inclusion of the said services at any point of time during her entire period of service and even after superannuation when the petitioner had remained silent for about seven years, raising the issue in respect of the matter which is concluded in the year 1991, in the year 2019, for the first time, cannot be permitted and no exception whatsoever can be taken for the findings of the learned Single Judge. Accordingly, finding no merits, this Writ Appeal is dismissed. There shall be no order as to costs.

[S.S.R., J.] [D.B.C., J.]
27.09.2023

Index :Yes/No
Internet :Yes/No



W.A(MD).No.1629 of 2023

ssb

To

- 1.The State of Tamil Nadu,
Rep.by its Secretary,
Department of Education,
Fort St.George,
Chennai-600 009.
- 2.The Joint Director of School Education
(Secondary Education),
College Road,
Chennai-6.
- 3.The Chief Educational Officer,
Virudhunagar District,
Virudhunagar.
- 4.The District Educational Officer,
Srivilliputhur,
Virudhunagar District.



W.A(MD).No.1629 of 2023

S.S.SUNDAR, J.
AND
D.BHARATHA CHAKRAVARTHY, J.

ssb

ORDER MADE IN
W.A(MD).No.1629 of 2023

27.09.2023