



W.P.(MD).No.5928 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.5928 of 2019

S.Tamilselvi

... Petitioner

Vs.

1.The Joint Director,
Department of School Education
(Employees Wing),
Chennai-6.

2.The Chief Educational Officer,
Karur District,
Karur.

3.The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George, Chennai – 600 009.

... Respondents

(R3 suo moto impleaded by this Court vide order, dated 03.01.2023)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.053536/R1/E1/2018 dated 31.01.2019 to quash the



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same as illegal and arbitrary and consequently directing the respondents to count 50% of the service of the petitioner in the post of Noon-Meal Organizer from 03.02.1983 to 11.11.1985 and revise pension accordingly and to pay arrears of retirement benefits within a time frame fixed by this Court.

For Petitioner : Mr.B.Saravanan

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader

ORDER

This writ petition has been filed to quash the order passed by the 1st respondent, dated 31.01.2019 with a consequential relief to count 50% of the service rendered in the post of Noon-Meal organizer from 03.02.1983 to 11.11.1985 and revise pension accordingly and to pay arrears of retirement benefits.

2. The petitioner was appointed as a Noon-meal organizer on 03.02.1983. Thereafter, the petitioner participated in the selection process to the post of BT-Assistant and was selected and joined the BT-Assistant post on 12.11.1985. Thereafter, the petitioner was promoted to various posts and finally attained



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superannuation and retired on 31.05.2014. The petitioner is receiving pension for the service rendered as BT-Assistant from 12.11.1985 to 31.05.2014. The claim of the petitioner is to include the Noon-meal organizer service from 03.02.1983 to 11.11.1985 as a pensionable service and grant pension. The said claim was rejected by the 2nd respondent vide proceedings, dated 30.11.2018. Aggrieved over the same, the petitioner preferred an appeal to the 1st respondent and the same was rejected vide the impugned order, dated 31.01.2019. Aggrieved over the same, the present writ petition is filed.

3. The respondents have rejected the claim of the petitioner by relying on the judgment of the Hon'ble Division Bench rendered in W.A(MD)No.587 of 2014 and batch, dated 03.12.2014. The learned Additional Government Pleader submitted that in the order passed by the Hon'ble Division Bench, it has been held that on a combined reading of G.O.Ms.No.408 dated 25.08.2009, G.O.Ms.No.6 dated 06.01.2010, G.O.Ms.No.41 dated 09.02.2010 and G.O.Ms.No.34 dated 14.03.2013 read with Rule 11 (4) of the Pension Rules the petitioners are not entitled to. Therefore, the learned Additional Government Pleader submitted that the judgment of the Hon'ble Division Bench rendered in W.A(MD)No.587 of 2014 and batch is applicable to the present case.



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4. Heard Mr.B.Saravanan, learned counsel for the petitioner and Mr.D.Sadiq Raja, learned Additional Government Pleader for the respondents.

5. After hearing the rival submissions made on either side and perusing the judgment of the Hon'ble Division Bench in W.A(MD)No.587 of 2014 and batch, it is seen that the Hon'ble Division Bench has taken into consideration for the persons, who were appointed after 01.04.2003. This would be evident from the issue stated in the order in Paragraph No.21 which is extracted hereunder:

21. The issue to be decided is whether 50% of the services of the employees, who worked in Noon-Meal Scheme and ICDS for number of years, has to be taken into account for calculating pensionary benefits, even when they are appointed in regular Government Service after 01.04.2003.

6. The Hon'ble Division Bench has dealt with the case of the persons who were appointed after 01.04.2003 or regularized after 01.04.2003. In the



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present case, the petitioner was appointed as BT-Assistant on 12.11.1985 itself in the regular post. In such circumstances, the Division Bench judgment is not applicable to the present case.

7. Since the issue involved in this case will have State wide impact and also financial constraints to the government, this Court is *suo moto* implead the State of Tamil Nadu, Represented by its Secretary, Department of School Education, Fort St.George, Chennai as one of the party and passes the following order:

- (i) The impugned order, dated 31.01.2019 is quashed.
- (ii) The impleaded respondent is directed to consider whether the petitioner is entitled to include the service rendered as Noon Meal Organizer from 03.02.1983 to 11.11.1985 and pass speaking orders within a period of four (4) months from the date of receipt of the copy of the order.

8. With the above directions, this Writ Petition is disposed of. No costs.



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Index : Yes / No

Internet : Yes/ No

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S.SRIMATHY, J.

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