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W.P.(MD).No.6775 of 2016

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.6775 of 2016

and

W.M.P.(MD).No.5833 of 2016

Gopalakrishnan

... Petitioner

Vs.

1.The Chief Educational Officer,
Tiruchirappalli District,
Tiruchirappalli.

2.The District Educational Officer,
Sethuramanpillai Colony,
Tiruchirappalli.

3.The Additional Assistant Educational Officer,
Manapparai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified mandamus, calling for the records of the first respondent in his proceedings Na.ka.No.9073/A1/2015 dated 11.12.2015 and quash the same and consequently directing the first respondent to fix pension to the petitioner's grand mother namely Arayeeammal by considering the full time services rendered by the grandmother of the petitioner from 01.11.1974 to 31.07.1995 with the respondents based on G.O.Ms.No.437 dated 23.06.1988 and G.O.Ms.No.408, dated 25.08.2009.



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W.P.(MD).No.6775 of 2016

For Petitioner : Mr.T.M.Madasamy

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

ORDER

This Writ Petition is filed for Certiorarified mandamus, to quash the order dated 11.12.2015 and consequently directing the first respondent to fix pension to the petitioner's grand mother namely Arayeeammal by considering the full time services rendered by the grandmother of the petitioner from 01.11.1974 to 31.07.1995.

2. The contention of the petitioner is that the petitioner's grandmother has served for more than 29 years in the said post. However, the respondents have considered the service of the petitioner's grandmother from 01.04.1985 onwards, which is erroneous. Therefore, the petitioner is seeking to quash the impugned order, which declines to consider the service rendered prior to 01.04.1985 for calculating pension.



W.P.(MD).No.6775 of 2016

3. The respondents have filed counter stating that the petitioner's grandmother joined the Municipal Middle School on 28.06.1966 as Conductress on part time basis. She was absorbed as full time Conductress with effect from 01.11.1974 on fixed pay of Rs.15/- per month with other allowances. Thereafter, the said employee was brought under time scale of pay and her service was regularized with effect from 01.04.1985. Subsequently, she was appointed as Night Watchman and retired from service on 31.07.1995. The regular service of the employee was taken into account for pensionary benefits only from 01.04.1985 to 31.07.1995. Therefore, there is no infirmity in the pensionary benefits which was granted to the petitioner's grandmother. Hence, the respondents prayed to dismiss this Writ Petition.

4. Heard Mr.T.M.Madasamy, learned counsel for the petitioner and Mr.D.Sadiq Raja, learned Additional Government Pleader appearing for the respondents.

5. The petitioner is 35 years old at the time of filing of this Writ Petition. The petitioner is seeking the pensionary benefits of the petitioner's grandmother. The respondents have filed a counter stating that the petitioner's grandmother was regularized from 1985 onwards in a permanent post in the



W.P.(MD).No.6775 of 2016

available vacancies. Prior to this service, the petitioner's grandmother was serving in a part time post and subsequently, brought under consolidated pay. Thereafter, she brought under time scale of pay and her service was regularized as permanent employee. The service rendered in the part time and consolidated pay can never ever be taken into account for granting pension. The claim of the petitioner is totally illegal and the same cannot be granted. Moreover the petitioner, being the grandson of the deceased employee, who has attained majority cannot be considered as a eligible legal heir for granting pensionary benefits. On this ground also, the petitioner is not entitled to the relief.

6. Hence, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

22.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



W.P.(MD).No.6775 of 2016

To

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W.P.(MD).No.6775 of 2016

S.SRIMATHY, J.

Nsr

W.P.(MD).No.6775 of 2016

22.02.2023