



W.P.(MD) No.8157 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2023

CORAM

THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD) No.8157 of 2016

T.Tharmaraj

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Elementary Education Department,
Fort St.George, Chennai - 9.

2.The Principal Accountant General,
Office of the Principal Accountant General
(Accounts & Entitlements) Tamil Nadu,
361, Anna Salai, Chennai – 18.

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

4.The Assistant Elementary Educational Officer,
Radhapuram, Tirunelveli District.

5.The Secretary,
Hindu Middle School,
Koodankulam, Tirunelveli District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of a Writ of Certiorarified Mandamus, to call for the
records of the second respondent herein in Pension 25/1/12511633/ADK /



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MISC dated 30.06.2015 and quash the same and consequently direct the respondents herein to sanction pension by counting the service rendered by petitioner from 14.08.1981 to 05.02.1999 and to pay the retirement benefits and monthly pension from the date of superannuation i.e., 30.04.2013 with all other monetary benefits.

For Petitioner : Mr.T.Pon Ramkumar

For R1, R3 & R4 : Mr.T.Amjadkhan
Government Advocate

For R2 : Mr.P.Gunasekaran

For R5 : No appearance

ORDER

The petitioner has challenged the impugned order of the second respondent dated 30.06.2015 bearing reference No.Pension 25/1/12511633/ADK/MISC and seeks for a direction to the respondents herein to sanction pension by counting the service rendered by petitioner from 14.08.1981 to 05.02.1999 and to pay the retirement benefits and monthly pension from the date of superannuation i.e., 30.04.2013 with all other monetary benefits.

2. The undisputed facts are that on 14.08.1981, the petitioner joined the service in the fifth respondent School as Physical Education Teacher



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(P.E.T.). He continuously served in the said post from 14.08.1981 to 05.02.1999. The petitioner claims that he suffered from a paralysis stroke, went into a coma, and was also in deep depression on account of the death of his son. Therefore, he could not report for duty from 06.02.1999 to 01.01.2013. This period amounts to 13 Years, 10 Months and 26 Days. He reported for duty on 02.01.2013 and retired from service on 30.04.2015.

3. The fifth respondent school forwarded the pension proposal only for the period between 14.08.1981 and 05.02.1999. It cannot be disputed that the petitioner has put service for more than the requisite years for the purpose of grant of pension. Further, the pension proposal was returned only on the ground that the period of 13 Years, 10 Months and 26 Days when the petitioner was absent has not been regularized by the Government.

4. This order was challenged by the petitioner before this Court on the ground that he will be governed by the provisions of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and Rules made thereunder.



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WEB COPY 5. Mr.T.Pon Ramkumar relies upon Section 18 of the Act and claims that the petitioner will be governed by the Rules framed under the Act and by other provisions.

6. Mr.P.Gunasekaran appearing for the second respondent points out that insofar as leave and pension are concerned, it is governed under Section 19 and not Section 18. I agree with him. When there is a specific provision with respect to the pension, general provision of Section 18 would not be applicable.

7. However, from the facts discussed above, it is clear that the petitioner is entitled for pension for the period between 14.08.1981 and 05.02.1999 when he served and it is for that period he seeks for pension. The return made by the second respondent cannot be found fault with because the period of 13 Years, 10 Months and 26 Days when the petitioner was absent has not been regularized by the Government.

8. Therefore, the petitioner is permitted to make a representation to the first respondent through the fifth respondent giving all details of



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service and seeks for regularization of the said period. On receipt of the same, the first respondent is directed to pass orders within a period of 8 weeks thereafter and communicate the decision to the second respondent without any delay.

9. The Government may consider the case of the petitioner sympathetically as the petitioner seeks for pension on two grounds, i.e. (i) the petitioner is seeking for pension only for the period when he continuously served with the fifth respondent and not for the period when he was absent, and (ii) the petitioner was in deep depression and suffered by mental and health issues due the death of his son.

10. With the above observations, this Writ Petition is disposed of.

No cost.

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NCC :Yes/No
Internet: Yes/No
Index: Yes/ No
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To
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V.LAKSHMINARAYANAN, J.

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