



W.A.No.1739 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2024

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

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1. Government of Tamil Nadu
Rep. by its Secretary to Government
School Education, Fort St. George
Chennai – 600 009.
 2. The Director of School Education
Chennai – 600 006.
 3. The Chief Educational Officer
Thiruvavur, Thiruvavur District.
 4. The Head Master
Government High School
Mahadeva Patanam, Thiruvavur District. .. Appellants
- Vs.
- G.Shenbagavalli .. Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 08.04.2011 in W.P.No.27668 of 2007.

For the Appellants : Mr.E.Sundaram
Government Advocate

For the Respondent : Mr.G.Veerapathiran

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JUDGMENT

(Delivered by the Hon'ble Mr. Justice S.M.SUBRAMANIAM)

The writ order dated 08.04.2011 in W.P.No.27668 of 2007 is under challenge in the present writ appeal.

2. The State preferred the present appeal mainly on the ground that the respondent has not produced any documents to establish that her deceased husband served in a pensionable establishment and eligible for pension under the the Tamil Nadu Pension Rules, 1978.

3. In absence of any documents, the claim for grant of pension or family pension cannot be considered by the Competent Authorities. Since the learned Single Judge issued a positive direction to grant family pension, the State has chosen to file the present writ appeal.

4. *Mr.G.Veerapathiran*, learned counsel for the respondent would oppose by stating that the Writ Court granted the relief based



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on the documents produced by the respondent. Thus, the Writ Court has considered the documents and accordingly, granted the relief of pension. Thus, the writ appeal is to be rejected.

5. We are of the considered opinion that the documents produced by the respondent alone cannot be a ground to issue directions for grant of pension. Such documents produced by the employees or their spouses are to be examined with reference to the documents available in the Government records. The Writ Court ought not to have formed a final opinion based on the documents produced by the respondent in the Writ proceedings. Such documents require scrutinization with reference to the Government records. Admittedly, such an endeavour has not been undertaken. Therefore, we find that the directions issued is not in consonance with the principles.

6. Pension/family pension is not a bounty, but deferred portion of the wages rendered for service. Courts have consistently held



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that the pension is a continuing cause and if at all the claim of the respondent or her husband had not been considered properly or mistakenly omitted, the same can be looked into by the Government for grant of pension or family pension.

7. In the present case, the appellants filed counter affidavit before the Writ Court stating that they do not possess any records to establish that the deceased husband of the respondent served in a pensionable establishment and eligible for pension. *Per contra*, the respondent produces some records, which needs to be verified along with the documents, if any, available with the Government.

8. In this context, the Government is expected to take some efforts by verifying those documents in any one of the Government Offices, where the deceased husband of the respondent served or otherwise.

9. Pension, being a welfare scheme, cannot be rejected



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without scrutinizing the documents in a proper manner. For all these reasons, we set aside the order dated 08.04.2011 in W.P.No.27668 of 2011. The appellants are directed to examine the documents submitted by the respondent and accordingly, pass appropriate orders, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

10. The respondent is permitted to submit copies of the available documents to the appellants along with a copy of the order passed in the present writ appeal within a period of two weeks from the date of a receipt of a copy of this order. Consequently, the writ appeal stands allowed with the above directions. There shall be no order as to costs. Consequently, M.P.No.1 of 2012 is closed.

(S.M.S., J.)

(C.K., J.)

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Neutral Citation : Yes/No

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S.M.SUBRAMANIAM, J.

AND

C.KUMARAPPAN, J.

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