



W.P.No.809 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.809 of 2022

R.Blossom

... Petitioner

Vs.

- 1.State of Tamilnadu,
Rep. By its Secretary to Government,
School Education Department,
Secretariat,
Chennai 600 009
- 2.Director of Elementary Education,
College Road,
Chennai 600 006
- 3.The District Educational Officer,
Ponneri,
Thiruvallur District
- 4.The Block Educational Officer,
Minjur,
Thiruvallur District

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the third respondent dated 11.09.2021 in Na.Ka.No.1957/Aa2/2021 and quash the same and consequently, direct the respondents to deduct the General Provident



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Fund subscription from the petitioner's salary from December, 2006 with due credit in the existing Account No.326970 so as to enable the petitioner to come under the Old Pension Scheme.

For Petitioner : Mr.B.Balavijayan
for M/s.C.S.Associates

For Respondents : Mrs.S.Mythreye Chandru,
Special Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the third respondent dated 11.09.2021 thereby rejected the request made by the petitioner to take the earlier service into consideration to include the petitioner's case under old pension scheme.

2. The petitioner is qualified with Diploma in Teacher Education. She was appointed as Secondary Grade Assistant in Devasagayam Chettiar Middle School, Madurai on 16.03.2000. It is an aided school and the management had sent a proposal for approval of her appointment. It was duly approved by the authorities concerned with effect from 16.03.2000. Thereafter, the petitioner was enrolled in Teacher Provident Fund and she was allotted PF account No.326970 and



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subscription was also deducted from her salary. While being so, the petitioner was called for certification verification to the post of Secondary Grade Teacher by the Teachers Recruitment Board through Employment Exchange. The petitioner had participated in the certificate verification on 31.08.2006 and thereafter she attended counselling on 01.12.2006 and she got selected to the post of Secondary Grade Assistant Teacher.

2.1 Therefore, the petitioner submitted application on 02.12.2006 to the management requesting to relieve her so as to join as Secondary Grade Assistant Teacher. On the said request, the management also relieved her from service on 02.12.2006. However, the petitioner received appointment order from the District Elementary Educational Officer on 07.12.2006 and she had joined duty on 08.12.2006 at Panchayat Union Elementary School, Saruguvalayapatti, Melur Union, Madurai District. After joining, there is no deduction of GPF from the salary of the petitioner from December 2006 due to new pension scheme. Therefore, the petitioner made representation to take into consideration of her earlier service in the aided school and requested



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to deduct the contribution of GPF from her salary. The petitioner also approached this Court in WP.No.9748 of 2014 seeking direction to respondents to deduct GPF subscription from the petitioner's salary from December 2006 with due credit in the existing account No.326970 so as to enable the petitioner to come under the old pension scheme. This Court directed the respondents to consider the request made by the petitioner. After filing contempt petition, the request made by the petitioner has now been rejected by order dated 11.09.2021.

3. The fourth respondent filed counter and the learned Special Government Pleader appearing for the respondents submitted that the petitioner was relieved from the private aided school only on the ground of personal reason. She never represented before the private aided school as if she got appointment to the post of Secondary Grade Assistant Teacher. That apart, she was relieved from her earlier service on 02.12.2006 and she had joined duty only on 08.12.2006. There was break in her employment. Therefore, the earlier service of the petitioner cannot be taken into account to consider the case of the petitioner under



4. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.

5. Admittedly, the petitioner's appointment was duly approved by the authorities concerned from the date of her appointment in the private aided school on 16.03.2000. The Teachers Recruitment Board called for candidates as per the seniority registered through Employment Exchange and accordingly the petitioner got selected to the post of Secondary Grade Assistant and she was issued appointment order on 07.12.2006. It is also seen from the records that the petitioner attended counselling on 01.12.2006 and made request before the private aided school on 02.12.2006 for her relieving from duty. Though the petitioner stated as personal reason, admittedly she got selected to the post of Secondary Grade Assistant Teacher through Teachers Recruitment Board. Therefore, it can be easily considered that there was no break in service and she is continuously in employment as Secondary Grade



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Assistant Teacher. That apart, on perusal of the appointment order also revealed that the petitioner was given time to join duty till 12.12.2006. The petitioner admittedly, after relieving her from the private aided school and on receipt of the appointment order on 07.12.2006, joined duty on 08.12.2006 at Panchayat Union Elementary School, Saruguvalayapatti, Melur Union, Madurai District.

6. In order to consider the earlier service of the petitioner for old pension scheme, it is relevant to extract the provisions under Rules 24 & 25 of Pension Rules hereunder:

“24. Effect on interruption in service

(1) The interruptions in service shall not entail forfeiture of past service except when a person was removed and re-employed. The actual interruptions in service shall not, however, count for pension.

(2) The services rendered in temporary or permanent department or in substantive office shall also count for pension even if any interruptions exist.

25. Condonation of interruption in service

(1) In the absence of a specific indication to the contrary in the Service Book, an interruption between two spells of Civil Service rendered by a Government Servant shall be treated as



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automatically condoned and the pre-interruption service treated as qualifying service.

(2) Nothing in sub-rule (1) shall apply to interruption caused by resignation (or) removal from service or for participation in strike.

(3) The period of interruption referred to sub-rule (1) shall not count as qualifying service.”

7. Rule 23 says about the forfeiture of service on resignation. Though the petitioner requested to relieve from service on personal grounds, admittedly the petitioner got selected to the post of Secondary Grade Assistant and as such, she submitted letter seeking permission to relieve from service. Therefore, there was absolutely no delay in joining in the post as Secondary Grade Assistant Teacher and there was no break in service. Therefore, the impugned order cannot be sustained and the same is liable to be quashed.

8. Accordingly, the impugned order passed by the third respondent dated 11.09.2021 is quashed. The respondents are directed to take the petitioner's earlier service from 16.03.2000 till 02.12.2006 and



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subject the petitioner under Old Pension Scheme by deducting GPF from her salary from December 2006 with due credit in the existing account No.326970.

9. With the above direction, this writ petition stands allowed.

There shall be no order as to costs.

04.07.2024

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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To
1.Secretary to Government,



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2. Director of Elementary Education,
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4. The Block Educational Officer,
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G.K.ILANTHIRAIYAN, J.

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