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W.P.No.20101 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.20101 of 2011
and M.P.Nos.2 &3 of 2011

S.Gandhimathi

Vs

....Petitioner

1. Pondicherry Corporation for Development
of Women and Handicapped Persons Ltd,
No.30, 2nd Cross Street,
Pon Nagar,
Reddiyarpalayam,
Puducherry 605 010.
2. The Director,
Department of Women and Child Development,
No.50, Sithankudi,
Saram,
Puducherry 605 013.
3. Project Officer,
ICDS-Project IV,
Department of Women and Child Development,
Muthialpet,
Puducherry – 605 003.

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India,
pleased to issue a Writ of Certiorari to call for the records on the file of the
second respondent relating to the impugned order bearing



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Ref.No.1032/14/DWCD/ICDS/STAT/2006 dated 30.10.2006 in so far it seeks to alter the age of the petitioner from 51 years to 55 years as of the year 2006 and the consequential amendment made in the petitioner's service register with respect to the petitioner's age and quash the same in much as it relates to the retirement of the petitioner and consequently direct the respondents to treat the date of superannuation of the petitioner as 16.10.2014 and continue the petitioner's service with all service and monetary benefits.

For Petitioner : Mr.R.Saravanan

For Respondents : Mr.M.Nirmal Kumar
Government Advocate

ORDER

The Writ Petition has been filed to call for the records on the file of the second respondent relating to the impugned order bearing Ref.No.1032/14/DWCD/ICDS/STAT/2006 dated 30.10.2006 in so far it seeks to alter the age of the petitioner from 51 years to 55 years as of the year 2006 and the consequential amendment made in the petitioner's service register with respect to the petitioner's age and quash the same in much as it relates to the retirement of the petitioner and consequently direct the respondents to treat the date of superannuation of the petitioner as 16.10.2014 and continue the petitioner's service with all service and monetary benefits.



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2. It is the submission of the learned counsel for the petitioner that, petitioner was appointed as Anganwadi Helper at the Vathiakuppam VI Anganwadi on a temporary basis on 21.10.1994. She was regularly appointed as Women Development Helper in the scale of pay of Rs.2,550 – Rs.3,200/- with effect from 01.05.2005. Petitioner's date of birth was 17.10.1954 and in support of this, she produced the Transfer Certificate issued by the Kamala Nehru Middle School, Kooteripattu, Dindivanam Taluk. On the basis of this certificate, petitioner's date of birth was registered as 17.10.1954 in the Service Register. However, a committee was constituted to ascertain the age of the employees who had not produced the birth certificate and determined the age of the petitioner as 55 on 30.10.2006 . As per the determination of the committee, petitioner's date of birth was assigned as 17.10.1951. If this age is taken into consideration, petitioner would have to retire 3 years prior to the actual date of retirement. In the said circumstances, present petition is filed.

3. It is the further submission of the learned counsel for the petitioner that, at the time of filing the Writ Petition, interim order was granted in W.M.P.No.01 of 2011. In pursuance to the interim order, petitioner was permitted to continue in service and she was permitted to serve her entire



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tenure till 16.10.2014. Though she was paid salary, she was not paid the annual increment, bonus, EPF due to her for the last three years. In a similar situation, this Court in W.P.No.11432 of 2011, directed the petitioner therein to submit a representation to the respondents. On such representation being made, 1st respondent was directed to consider the petitioner's representation for payment of monetary and terminal benefits. He prays that, similar orders may be passed in this case also.

4. The learned counsel for the respondents submitted that, order may be passed in pursuant to the order passed in W.P.No.11432 of 2011 and seeks time to consider the representation to be submitted and to pass appropriate orders.

5. In the light of the submissions made by the learned counsel appearing for the parties and that petitioner was permitted to serve till her retirement i.e. on 16.10.2014, this Court directs the petitioner to submit a representation to the 1st respondent seeking monetary and terminal benefits due to her. On submission of such representation, 1st respondent is directed to pass appropriate orders within a period of four months time from the date of receipt of copy of the order.



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6. Before parting, this Court wants to record that, fixing of age on the basis of physical appearance of the petitioner or anybody else for this matter is not proper. In the absence of any documentary evidence in support of the date of birth or age, there are certain Scientific Methods available to determine the age approximately. However, committee fixed the date of birth of the petitioner on the basis of the petitioner's physical appearance as 17.10.1951, which is not correct and never be accepted.

7. In the result, this Writ Petition is disposed of with the above observations and directions. Consequently, connected miscellaneous petitions are closed. No costs.

07.03.2024

Index :Yes/No
Internet:Yes/No
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G.CHANDRASEKHARAN, J

Sma

To

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