



W.P.No.29097 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 02.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.29097 of 2012

S.Gomathi Ammal

....Petitioner

Vs

1. The Government of Tamil Nadu
Rep. By its Secretary to Government,
School Education Department,
Fort.St.George,
Chennai -9.
2. The Director of School Education,
College Road,
Chennai 600 006.
3. The Accountant General,
Accountant General Office,
Teynampet,
Chennai -18.
4. The Chief Educational Officer,
Tirunelveli District,
Tirunelveli

....Respondents



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PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records in relating to the Order passed by the 2nd Respondent in Na.Ka.No.33535/அபி 1/அ 2/10 dated 14.07.2010 and quash the same thereby direct the 1st Respondent to pass suitable orders sanctioning family pension in favour of the petitioner with arrears.

For Petitioner : Mr.A.R.Nixon

For R1, R2 & R4 : Mr.P.Rajarajeswari

For R3 : M/s.Hema Muralikrishnan

ORDER

The Writ Petition has been filed to call for the records relating to the Order passed by the 2nd Respondent in Na.Ka.No.33535/அபி 1/அ 2/10 dated 14.07.2010 and quash the same thereby direct the 1st Respondent to pass suitable orders sanctioning family pension in favour of the petitioner with arrears.

2. The learned Counsel appearing for the petitioner submitted that, petitioner is the wife of Late V.Sathursamy. He was working as Secondary Grade Tamil Pandit at Government Higher Secondary School, Kalakad till



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05.12.1972. His service had been terminated on 05.12.1972. While her husband was working at Kalakad School, he became sick. He developed depression. He was not in a position to think anything about the future. He became mentally ill. He made representation to the Secretary, Education Department on 30.06.1980. All of a sudden, his service was terminated on 24.09.1980. Before terminating his service, no principles of natural justice was followed. On 11.12.1997, petitioner's husband requested the Director Education Department to sanction pension. On 04.06.2009, he sent a letter to the Accountant General demanding Pension. The said proposal was returned on 03.08.2009 stating that petitioner's husband was dismissed from service. Petitioner filed Writ Petition before this Court seeking to consider the representation with regard to grant of pension. This Court in W.P.No.4178 of 2010 directed the respondents to consider the petitioner's representation and pass appropriate orders. Thereafter, 2nd respondent has passed an order in Na.Ka.No.33535/அபி 1/அ 2/10 dated 14.07.2010 rejecting their claim. Aggrieved by the same, present Writ Petition is filed.

3. It is the submission of the learned counsel for the petitioner that, petitioner's husband was suffering from mental illness and he was not aware



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of what he was doing. Therefore, he did not go to work. No proper procedure was followed before terminating his service and not even a Show Cause Notice was issued. When termination itself is illegal, rejecting petitioner's family pension is not correct.

4. In reply, the learned counsel for the respondents 1 to 4 submitted that, petitioner's husband remained absent for long period without applying for any leave. Therefore, his service was terminated. Petitioner filed W.P.No.4178 of 2010 seeking to consider her representation dated 11.09.2009 by the respondents with regard to grant of terminal benefits, family pension etc., This Court directed the respondents therein to consider the petitioner's representation and pass orders on merits. Thereafter, petitioner's representation was considered and impugned order was passed by the 2nd respondent in Na.Ka.No.33535/அரசு 1/அ 2/10 dated 14.07.2010.

5. Considered the rival submissions and perused the records. It is seen from the submissions of the learned counsel appearing for the parties and records produced that, petitioner's husband's termination from service was not challenged either by the petitioner's husband while he was alive or



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by the petitioner. Without challenging the termination of the petitioner's husband, petitioner filed this Writ Petition seeking terminal benefits and family pension. It is a settled law that, person dismissed from service is not entitled for any pension and his family members for a family pension. When the dismissal order itself is not challenged, this Court is of the view that, petitioner's claim for grant of family pension cannot be entertained.

6. Accordingly, this Writ Petition is dismissed. No costs.

02.04.2024

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

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To

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