

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.03.2024

PRONOUNCED ON : 28.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.13565 of 2022
and W.M.P.Nos.12771 & 12775 of 2022

R.R.Lakshmi

...Petitioner

-Vs-

1. The Headmaster,
The Chennai Port & Dock Educational
Trust's Higher Secondary School,
MDLB Housing Colony,
Tondiarpet,
Chennai – 600 081.
2. The Director of School Education,
DPI Complex, College Road,
Nungambakkam,
Chennai – 600 006.
3. The Chairman,
The Chennai Port and Dock
Educational Trust,
Rajaji Salai,
Chennai – 600 001.
4. The Senior Deputy Secretary
cum Correspondent
The Chennai Port and Dock
Educational Trust,

Rajaji Salai,
Chennai – 600 001.
(R3 and R4 are impleaded as
per order dated 25.09.2023
made in WMP.No.1996 of 2023
in W.P.No.13565 of 2022)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the superannuation from the service of the petitioner vide letter Ref.No.School/Misc/2021/S1 dated 22.07.2021 with effect from 31.05.2021 issued by the first respondent and quash the same and direct the first respondent to reinstate the petitioner forthwith, for enabling the petitioner to get the attendant benefits, as per the G.Os viz., G.O.Ms.51 dt. 07.05.2020 and G.O.Ms.29 dt. 25.02.2021 (Personnel & Administration Reforms (S) Dept, concerned with the enhancement of the superannuation age from 58 years to 60 years accordingly.

For Petitioner : Mrs.R.R.Santhi Devi
For Respondents
For R1 : Mr.K.Sathish
For R2 : Mrs.S.Mythreye Chandru
For R3 & R4 : Mr.P.Ulaganathan

ORDER

This writ petition has been filed challenging the order dated 22.07.2021 passed by the first respondent thereby relieving the petitioner from service on retirement with effect from 31.05.2021.

2. The case of the petitioner is that she is qualified with M.Sc., M.Ed., M.Phil degree and she was appointed as Teacher in the first respondent School run by the Madras Port and Dock Educational Trust. Though she was appointed as secondary grade teacher, she was exploited to the maximum level because of her higher qualification without any hike in her salary and other benefits. While she was about to cross 57 years in the month of May 2020, the Government passed order in G.O.Ms.No.51 Personnel & Administrative Reforms (S) Department dated 07.05.2020, thereby enhanced the age of retirement from 58 to 59 years.

3. Pursuant to the said government order, the petitioner and others teachers submitted representation collectively to the management seeking to enhance the age of retirement till 59. However, the said request was not considered by the management. The petitioner was subsequently relieved from her service as she had retired from service with effect from 31.05.2021 on the attainment of age of superannuation. Subsequently, the management of committee convened meeting on 23.03.2022 and resolved that the age of retirement has been enhanced

from 58 to 60 with effect from 31.03.2022 onwards. Therefore, similarly placed teachers like the petitioner were permitted to work till their completion of 60 years.

4. The learned counsel appearing for the petitioner submitted that the action of the management is tinged with favouritism and nepotism. Further it is unjust, highly discriminatory and unconstitutional, violation of fundamental rights of the citizens, in terms of equality and equal opportunities guaranteed by the Constitution of India. She further submitted that though the government passed order in G.O.Ms.No.51 dated 07.05.2020, it was not considered by the management and abruptly terminated the service of the petitioner. The petitioner was deprived of her service benefit of extension of age of retirement as 60.

4.1. That apart, the government passed another order in G.O.(Ms)No.29 dated 25.02.2021, thereby extended the years of retirement from 59 years to 60 years. Though the petitioner submitted representation through E-mail dated 07.03.2022 to the third respondent seeking the benefits of extension of two years of service till the age of 60

years, so far it was not considered. But the similarly placed teachers were granted benefits under the government orders. Hence, the petitioner filed this present petition with the above said order.

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

6. The petitioner was relieved from service with effect from 31.05.2021 by the first respondent, since she attained the age of superannuation. On perusal of G.O.Ms.No.51 Personnel and Administration Reforms (S) Department, dated 07.05.2020 revealed as follows :-

“The Government have decided to increase the age of superannuation of government servants from 58 years to 59 years and orders accordingly. This will apply to all those who are in regular service as on date and due to retire on superannuation from 31.05.2020.

2. This order shall also be applicable to all teaching and non-teaching staff working in aided educational institutions and employees of all constitutional/statutory bodies, public sector undertaking including all State corporations, local

bodies, boards, commissions, societies, etc.,

3. The relevant provisions under Rule 56 of the Tamil Nadu Fundamental Rules will be modified to the above extent. Necessary amendment to the above rules will be issued accordingly.”

7. Admittedly, the petitioner is working in a private school. It is not aided by the government. Therefore, the entire benefits of the teachers including pay scales and other benefits are recommended by the management viz., third and fourth respondents. Though the school run by the Chennai Port and Dock Educational Trust, it is running separately and it is completely private school. The private schools are governed by the Tamil Nadu Private Schools (Regulation) Act, 2019. Therefore, the order passed by the government in G.O.Ms.No.51 dated 07.05.2020, not at all applicable to the third and fourth respondents school.

8. Further the third respondent school has been established during the year 1971 to meet out the primary education needs of Madras Dock Labour Board (MDLB) employees with due government recognition. Further developed to model elementary school and upgraded

into a middle school. In the year 1989, the trust was formed with a representative of Sri Ramakrishna mission and senior officials of MDLB as Trustees with the name of Sri Ramakrishna Chennai Port Educational Trust. Subsequently, the school was upgraded to higher secondary school. Therefore, entire school management was managed by the Chennai Port & Dock Educational Trust. It is neither a government school nor a government aided school. It is running exclusively through the fund granted by the Chennai Port authorities and no grant or aid is being received from either State or Central Government. The teaching and non teaching staff are provided with salary and other benefits as recommended by the committee considering various factors including pay scale of the State government schools.

9. As per the bye-law of the Trust, the retirement age is 58 years. Due to Covid-19, the Government passed orders in G.O.(Ms).No.51 dated 07.05.2020 and G.O.(Ms)No.29 dated 25.02.2021, thereby enhanced the age of retirement from 58 to 59 and 59 to 60 respectively. After the second government order, the third respondent convened meeting and issued circular dated 28.03.2022,

thereby made applicable to those who are in regular service as on that date and due to retire on superannuation from 31.03.2022 onwards. However, the said benefits is not extended to the petitioner. Both the government orders are not applicable to the staff of the third respondent school. Further, the government order in G.O.No.29 dated 25.02.2021, it is clearly mentioned that it is applicable to aided and government educational institutions. Therefore, the third respondent is wholly funded by the Chennai Port Trust and the said government orders are not applicable to the third respondent school.

10. In view of the above discussions, this Court finds no infirmity or illegality in the order of reliving the petitioner after completion of 58 years due to attainment of superannuation age. The writ petition is devoid of merits and liable to be dismissed. Accordingly, the Writ Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

28.03.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
rts

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