



WEB COPY



W.P.No.3698 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

CORAM:

THE HONOURABLE MRS. JUSTICE N. MALA

W.P.No.3698 of 2016

and

W.M.P.No.35697 of 2016

R. Gracy Bai

...Petitioner

-Vs-

1. The Government of Tamil Nadu,
represented by the Secretary,
Education Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Director of School Education,
College Road, DPI Building,
Chennai – 600 006.
3. The Chief Educational Officer,
Thiruvallur District.
Tamil Nadu.
4. Accountant General (A & D) Tamil Nadu,
361, Annasalai,
Chennai – 600 018.
5. Account Officer,
O/o. The Accountant General
(Accounts & Entitlements) Tamil Nadu,
Chennai – 600 018.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, to call for the records relating to the order dated 05.02.2016 passed by the third respondent vide No. 4058/A5/2015 and quash the same and direct the first respondent to grant pension to the petitioner in view of G.O.408 dated 25.08.2009 by counting half the service rendered by the petitioner in St.Joseph Higher Secondary School, Chennai which is a Government Aided School, from 12.06.1984 to 09.11.2000 along with the service rendered by the petitioner in Government Higher Secondary Schools from 03.11.2000 to 31.05.2010 for the purpose of pension and grant pension accordingly with arrears of pension and all other consequential benefits, within stipulated time limit with interest at 15% p.a from the date of superannuation i.e. 31.05.2010 till the date of payment.

For Petitioner : Mr.Y.Kavitha & K.Nithyashree
For R1 to R3 : Mr.S.Prabhakaran
Government Advocate
For R4 & R5 : Mrs. Hema Muralikrishanan
Additional Government Pleader

ORDER

This writ petition is filed seeking for Certiorarified Mandamus to quash the order dated 05.02.2016 passed by the third respondent vide No. 4058/A5/2015 and to direct the first respondent to grant pension to the petitioner in view of G.O.408 dated 25.08.2009 by counting half the service



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rendered by the petitioner in St.Joseph Higher Secondary School, Chennai which is a Government Aided School, from 12.06.1984 to 09.11.2000 along with the service rendered by the petitioner in Government Higher Secondary Schools from 03.11.2000 to 31.05.2010 for the purpose of pension and grant pension accordingly with arrears of pension and all other consequential benefits, within stipulated time limit with interest at 15% p.a from the date of superannuation i.e. 31.05.2010 till the date of payment.

2. The case of the petitioner is that the petitioner was initially appointed as Tamil Pandit in St.Joseph Higher Secondary School, a Government aided school. Later, the petitioner was appointed as Tamil Pandit in Government Higher Secondary School, Theni. Thereafter, she superannuated on 31.05.2010. The petitioner was denied pension stating that she had not put in the qualifying service of 10 years. The petitioner hence submitted a representation dated 20.06.2014 to the second and the third respondents seeking pension as per the G.O.Ms. 18 dated 09.01.1997. As there was no response, the petitioner filed a W.P.No.8752 of 2015 and this Court by order dated 27.07.2015 disposed of the writ petition by directing the first respondent therein to consider and dispose of the petitioner's representation dated 20.06.2014 on merits and in accordance with law,



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particularly in the light of the G.O.Ms.No. 18 dated 09.01.1997. Thereafter, the Government vide the impugned order dated 27.07.2015 rejected the petitioner's representation on the ground that petitioner had worked in an unaided school as Management staff and therefore she was not entitled to pension. Aggrieved by the same, the petitioner has filed the above writ petition for the aforesaid relief.

3. The learned counsel for the petitioner relying on the judgement of this Court dated 20.10.2023 in W.P.(MD).No. 22243 of 2016 prayed that the petitioner may be permitted to withdraw the writ petition with liberty to submit a representation to the Government invoking Rule 10 of Special Rules for the Tamil Nadu Higher Secondary Educational Service. Rule 10 reads as follows:

“Every person appointed to Classes II and III of the Service by direct recruitment from among the teachers employed in any school recognised by the Director of School Education shall count, for the purpose of Superannuation pension in Government Service the period of service counting for pension in such school recognised by the Director of School Education.”



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4. The learned counsel for the petitioner submitted that the aforesaid rule squarely applies to the petitioner as the petitioner worked in a Government aided school which was recognised by the Director of School Education. The learned counsel therefore sought permission of this Court to withdraw the Writ petition with liberty to approach the Government.

5. In view of the submission made by the learned counsel for the petitioner and also in view of the endorsement made in the Court Bundle, the petitioner is permitted to withdraw the writ petition with liberty to make a representation to the Government invoking Rule 10 of the Special Rules for the Tamil Nadu Higher Secondary Educational Service. The said representation shall be made by the petitioner within a period of two weeks from the date of receipt of copy of this order. On receipt of such representation, the first respondent shall pass orders within four weeks thereafter.

6. Accordingly, this writ petition is dismissed as withdrawn with liberty as prayed for. The connected W.M.P. is closed. No costs.

02.09.2024

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Index : Yes/No

Speaking/Non Speaking order



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To

1. The Secretary,
Education Department,
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Chennai – 600 009.
2. The Director of School Education,
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N. MALA, J.

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