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W.P.No.21644 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.21644 of 2021
and W.M.P.No.22825 of 2021
and W.M.P.No.771 of 2022

K.Kanakam

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Petitioner

versus

1.State of Tamil Nadu,

Rep. by its Secretary to Government,
Finance (Pension) Department,
Secretariat, Chennai - 600 009.

2.Chief Executive Officer,

Tamil Nadu Khadi & Village Industries Board,
Kuralagam, Chennai - 600 108.

3.Assistant Director,

Tamil Nadu Khadi & Village
Industries Board,
Kuralagam, Kumaran Nagar,
Avinashi Road, Tiruppur - 3,
Tiruppur District.

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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 impugned order of the 2nd respondent dated 24.08.2021 in



Na.Ka.No.15074/Oivu1/2013 and quash the same and consequently direct the respondents to settle the terminal benefits of the petitioner such as pension, encashment of earned leave and General Provident Fund with interest.

For Petitioner : Mr.S.Parthasarthy
For Respondent No.1 : Mr.R.Neethiperumal
Government Advocate
For Respondent Nos.2 & 3 : Ms.R.Uma
Standing Counsel for Khadi

ORDER

The petitioner has filed this writ petition seeking to quash the order passed by the 2nd respondent dated 24.08.2021 and consequently direct the respondents to settle the terminal benefits including pension etc.

2. Heard Mr.S.Parthasarthy, learned counsel for the petitioner, Mr.R.Neethiperumal, learned Government Advocate for the 1st respondent, Ms.R.Uma, learned Standing Counsel for the respondents 2 & 3 and perused the materials available on record.

3. Mr.S.Parthasarthy, learned counsel for the petitioner submitted that the petitioner had gone on voluntary retirement but her terminal benefits has not been settled so far.



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4. Mr.R.Neethiperumal, learned Government Advocate for the 1st respondent submitted that the petitioner is not eligible to go on voluntary retirement and hence the impugned order has been passed on 24.08.2021.

5. It is further submitted by Mr.R.Neethiperumal, learned Government Advocate for the 1st respondent that the petitioner's request for voluntary retirement was not considered because she had served only for 18 years 4 months and 28 days. According to Mr.S.Parthasarthy, learned counsel for the petitioner, the petitioner had served 22 years and 9 months and hence claims that she is entitled to go on voluntary retirement.

6. In fact, the petitioner had gone on loss of pay for nearly 4 years and it is the primary reason for not having the qualifying service for getting an order allowing her to go on voluntary retirement. When the rules regarding voluntary retirement prescribes a minimum qualifying service, the petitioner ought to have completed the said service. The petitioner had taken the risk of going on loss of pay knowing pretty well that those period will not be included in her qualifying service.



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7. Mr.S.Parthasarthy, learned counsel for the petitioner attracted the attention of this Court to the Government Order in G.O.(Ms.)No.313, Finance [Pay Cell] Department, dated 25.10.2017 and submitted that as per the above Government Order, the minimum pension should be Rs.7,850/- per month and in case of revised pension, the Government employee had, at the time of retirement, not completed the minimum required qualifying service to receive full pension as per the rules applicable at the time of retirement. The amount determined would be reduced *pro rata* by multiplying it with the ratio of total qualifying service of the Government employee to the minimum required qualifying service for full pension.

8. The above contents in the Government Order cannot be interpreted in a way that, a person who did not complete the minimum qualifying service should also be given with the pension by calculating the quantum of pension on *pro rata* basis. The Government Order has been issued only in pursuant to the rules governing the pension and hence the Government Order cannot supersede the rules. Since the petitioner has not established that she is entitled to get pension atleast on *pro rata* basis, the



petition does not deserve for favourable consideration and hence, it is liable to be dismissed.

In the result, this Writ Petition is **dismissed**. No costs. Consequently, connected Miscellaneous Petitions are closed.

07.02.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

- 1.The Secretary to Government,
State of Tamil Nadu,
Finance (Pension) Department,
Secretariat, Chennai - 600 009.
- 2.The Chief Executive Officer,
Tamil Nadu Khadi & Village Industries Board,
Kuralagam, Chennai - 600 108.
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R.N.MANJULA, J.

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