



W.A(MD)No.830 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2024

CORAM :

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

W.A(MD)No.830 of 2024

A.Alphonsa Mary

... Appellant

vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St.George, Secretariat,
Chennai-600 009.

2. The Director of Elementary Education,
D.P.I. Campus, College Road,
Nungambakkam,
Chennai-600 006.

3. The Additional Assistant Elementary Educational Officer,
Thirumayam,
Pudukkottai District.

4. The Correspondent,
Christuraja Middle School,
Thirumayam Taluk,
Hirudhayapuram,
Pudukkottai District.

5. The Accountant General,
Office of the Accountant General,
(Accounts and Entitlements)



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No.361, Anna Salai,
Chennai-600 015.

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent, against the order dated 02.02.2024 made in W.P(MD)No.4897 of 2017.

For Appellant : Mrs.P.Kalaiyarasi Bharathi
For R1 to R3 : Mr.D.Sadiq Raja
Additional Government Pleader
For R4 : Mr.P.Gunasekaran

JUDGMENT

(Judgment of the Court was made by **R.SURESH KUMAR, J.**)

This intra-court appeal has been directed against the order passed by the Writ Court dated 02.02.2024 made in W.P(MD)No.4897 of 2017.

2. The appellant was the writ petitioner who claimed to have been working as a Headmistress in the 4th respondent school and resigned the post in the year 1993. Thereafter, she claimed to have been involving in some other activities, but not worked for gain. Before resignation, she worked for 17½ years at the 4th respondent school. Therefore, that service shall be taken into account for the purpose of sanctioning pension. Therefore, seeking such pension, the petitioner/appellant had approached the respondents, where, the 5th



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respondent had rejected the claim of the petitioner/appellant to sanction pension by citing the rules of the Tamil Nadu Pension Rules, 1978.

3. Insofar as that stand taken by the 5th respondent is concerned, it is the plea of the petitioner/appellant that, under G.O.Ms.No.37, Department of Education, Science and Technology, dated 05.01.1983, those who resigned prior to 01.03.1968, that is the crucial date, are entitled to get pension and those who resigned after the crucial date is / are concerned, though they are not entitled to get pension, in peculiar circumstances, that embargo put in under G.O.Ms.No.37 can be relaxed by the State Government. Therefore, in order to relax such a condition enabling the petitioner/appellant to get pension, the petitioner/appellant had made a representation to the State Government. In order to consider the same and to pass orders, she had approached this Court and filed writ petition in W.P(MD)No.5276 of 2016, which was disposed on 16.03.2016, directing the State to consider the said representation and to pass orders.

4. Pursuant to the same, on 23.08.2016, the 1st respondent has passed an order quoting the relevant pension rules and the ineligibility attached with the petitioner/appellant for getting pension and rejected the plea of the



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petitioner/appellant even to give relaxation as sought for. That is the order which was impugned before the Writ Court.

5. The learned Judge who heard the said writ petition, has dismissed the same by citing the relevant rule in the Tamil Nadu Pension Rules and stated that, since the petitioner/appellant admittedly has resigned the post in 1993, those who resigned the post, would not be entitled to seek for pension under the rules, as the past service rendered by such a resigned person would get forfeited.

6. As against the said order passed by the Writ Court dated 02.02.2024, the present appeal has been directed.

7. Heard Mrs.P.Kalaiyarasi Bharathi, learned counsel appearing for the appellant and perused the materials placed before this Court.

8. As has been rightly held by the learned Judge who passed the impugned order, under Rule 23 of the Tamil Nadu Pension Rules, once the employee resigned from a service or post, his past service would get forfeited.



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9. Here in the case on hand, it is the appellant's case that she resigned the post in the year 1993, that is, well after the crucial date as per G.O.Ms.No. 37, Department of Education, Science and Technology, dated 05.01.1983, but those who resigned after the crucial date also can get pension, if the conditions imposed G.O.Ms.No.37, Department of Education, Science and Technology, dated 05.01.1983, are relaxed by the State Government.

10. When that issue came up for consideration before the 1st respondent, of course, as per the direction issued in this regard in the earlier round of litigation filed by the petitioner/appellant, the State Government has given cogent reasons as to why her case cannot be considered for giving such relaxation.

11. The reason being that, even on 01.12.1993, the petitioner/appellant has not resigned. There has been no such resignation recorded in the service register of the petitioner/appellant. Instead, the petitioner/appellant abruptly left the service for some religious function and this has been endorsed by the school as well as the educational authorities which is found place in the service record of the petitioner/appellant.



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12. Therefore, it was found by the 1st respondent State Government that, it is not a deserving case to be considered even for giving such relaxation for the grant of pension under G.O.Ms.No.37, Department of Education, Science and Technology, dated 05.01.1983. Therefore, the 1st respondent has rejected the plea of the petitioner/appellant through the order dated 23.08.2016. The said order having been considered by the learned Judge as per the rule which is in vogue, has also rejected the said writ petition by giving the afore-stated reasons.

13. We are in complete agreement with the said view taken by the learned Judge in view of the rule position as well as the factual matrix, as the case of the petitioner/appellant is not a deserving case for giving such relaxation by the State Government which is the discretion of the State Government and under the rule, the past service rendered by a resigned person since is to be forfeited, such service cannot be restored for the purpose of granting even the minimum pension as sought for by the petitioner/appellant unless and until her case is considered by the State Government as a deserving case.



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14. Therefore, the conclusion that has been arrived at by the 1st respondent through the order dated 23.08.2016 as well as the conclusion reached by the learned Judge through the impugned order dated 02.02.2024 are strictly in consonance with the rule position and also on the basis of the factual matrix of the case. Therefore, we do not find any error in the said approach of the learned Judge.

15. Resultantly, this Writ Appeal fails. Hence, it is dismissed. No costs.

(R.S.K., J.) (G.A.M., J.)
05.06.2024

Index : Yes / No
Neutral Citation : Yes / No
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2. The Director of Elementary Education,
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