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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.22452 of 2022

B.Muthulakshmi .. Petitioner

v.

1.The Under Secretary,
Government of Tamil Nadu,
Ministry of School Education,
Secretariat, St. George Fort,
Chennai – 9.

2.The District Educational Officer,
Periyakulam,
Theni District.

3.The Headmaster,
G.R.Varatharajulu Higher Secondary School,
Mayiladumparai,
Andipatti Taluk,
Theni District. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the second respondent to issue family pension to the petitioner together with interest @ 24% from

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the date of death of R.Balaiah till the date of payment, by considering the petitioner's representation dated 18.07.2022.

For Petitioner : Mr.R.M.Suresh

For Respondents : Mr.P.T.Thiraviam,
Government Advocate
for R.1, R.2

No appearance for R.3

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ORDER

The petitioner, claiming to be the wife of one R.Balaiah, a Secondary Grade Teacher, has submitted a representation dated 18.07.2022 for family pension that her husband died on 31.10.2010. Alleging that the said representation was not considered by the respondents, the petitioner has filed this writ petition.

2.Learned Counsel for the petitioner submitted that the petitioner's husband, R.Balaiah, served in the School Education Department as Secondary Grade Teacher and he died on 31.10.2010. Being the wife of R.Balaiah, the petitioner is entitled for pension benefits.

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3.Learned Government Advocate for the respondents 1 & 2 submitted that the petitioner's husband, R.Balaiah, joined as a Secondary Grade Teacher on 18.06.1980 in the third respondent School. Subsequently, his appointment was also approved. However, he resigned from his job on 13.02.1982. He served only for a period of 1 year, 7 months and 15 days. Thereafter, the petitioner's husband died due to illness on 31.10.2010. From 13.02.1982 till 18.07.2022, there was no communication, whatsoever, from the petitioner or her husband. In fact, even during his lifetime, the petitioner's husband has not made any claim for pension.

4.Learned Government Advocate further submitted that as on the date of death, the petitioner's husband was not in service. Therefore, the petitioner is not entitled for any pensionary benefits. He has also relied on Rule 49(2)(a) of the Tamil Nadu Pension Rules, in support of his contention.

5.This Court considered the rival submissions made on either side and perused the materials placed on record.

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6.The petitioner's husband, who joined as Secondary Grade Teacher on 18.06.1980, has resigned from his job on 13.02.1982 itself. He has served only for a period of 1 year 7 months and 15 days. As per Rule 49(2)(a) of the Tamil Nadu Pension Rules, if a government employee dies after completion of not less than one year continuous service, at time, during his service, then the family of the deceased is entitled to family pension. But, the petitioner's husband was not in service as on the date of his death on 31.10.2010.

7.In fact, the petitioner's husband has not made any claim for pension during his lifetime from 13.02.1982 till 31.10.2010 and his eligibility for pension, if any, has not been decided. Moreover, the petitioner has made the request for a family pension by a representation dated 18.07.2022, after 12 years from the date of death of her husband.

8.Therefore, this Court is not inclined to issue any mandamus as sought for in this writ petition. Accordingly, this writ petition is dismissed.

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There shall be no order as to costs.

Index : Yes / No **21.11.2024**
NCC : Yes / No
gk

To

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B.PUGALENDHI, J.

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