



W.P.(MD).No.4897 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 02.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

**W.P.(MD).No.4897 of 2017
and WMP(MD).No.3936 of 2017**

A.Alphonsa Mary
Formerly Headmistress
Christuraja Middle School
Thirumayam Taluk
Hirudhayapuram
Pudukkottai District

....Petitioner

Vs

1.The Government of Tamil Nadu
Represented 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
Education Officer
Thirumayam
Pudukkottai District

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



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5.The Accountant General
Office of the Accountant General
(Accounts and Entitlements)
No.361, Anna Salai
Chennai 600 015

...Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Ceriorarified Mandamus calling for the records pertaining to the impugned order passed by the first respondent in Letter No. 10629/Nee.Va.2(2)/2016, dated 23.08.2016, quash the same and direct the respondents to sanction pension within a time frame that may be fixed this Court.

For Petitioner	: Mr.P.Saravanakumar For M/s.M.Siddharthan
For R1 to R3	:Mr.P.T.Thiraviyam Government Advocate
For R4	: No appearance
For R5	: Mr.P.Gunasekaran

ORDER

The present writ petition has been filed by the Headmistress challenging the order passed by the first respondent on 23.08.2016 wherein the request of the petitioner for sanction of pension has been rejected on the ground that she had resigned from service.



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2. According to the learned counsel appearing for the writ petitioner, the petitioner was appointed as a Secondary Grade Teacher on 05.06.1975 and she was promoted as Headmistress on 07.06.1989. The petitioner had applied for a leave to undergo religious studies and she was relieved from the duty for a period of one year on 06.06.1990. It is submitted by the petitioner that she had rejoined duty on 06.06.1991.

3. According to the petitioner, the petitioner was again relieved from duty on 01.12.1993 and she had reached her superannuation on 25.08.2014. Thereafter, the School Management had forwarded the pension proposal to the concerned authority. The first respondent herein under the impugned order dated 23.08.2016 had rejected the said pension proposal on the ground that the petitioner had resigned from her job on 01.12.1993 itself. This order is put to challenge in the present writ petition.

4. The learned counsel for the petitioner had submitted that the petitioner has not resigned her job and she had again gone on a leave to undergo religious studies. Therefore, the entire service from the year 05.06.1975 should be reckoned for the purpose of calculating the pension. He had further contended that even assuming that the petitioner had resigned from the post on 01.12.1993, still she is entitled to receive pension.

5. Per contra, the learned Government Advocate appearing for the respondents had pointed out that the petitioner having resigned from the job



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on 01.12.1993, her entire past services will get forfeited. Therefore, she is not entitled to receive any pension. Hence, he prayed for dismissal of the writ petition.

6.I have considered the submissions made on either side and perused the material records.

7.It is an admitted fact that the petitioner was relieved from duty on 01.12.1993. The reason for such a relieving is reflected in the representation given by the writ petitioner on 30.04.2005 addressed to the first respondent herein. In the said representation, it has been specifically admitted by the petitioner that due to unavoidable reasons, she had to resign her job on 01.12.1993 while she was working as Headmistress in the fourth respondent School. Therefore, it is clear that the petitioner was relieved on 01.12.1993 only on the ground that she had resigned from the said post.

8.Rule 23 of Tamil Nadu Pension Rules is extracted as follows:

23. Forfeiture of service on resignation. - (I) Resignation from a service or post entails forfeiture of past service:

Provided that a resignation shall not entail forfeiture of past service if it has been submitted to take up with proper permission, another appointment, whether temporary or permanent, under the Government where service qualifies.

(2) Interruption in service in a case falling under the proviso to sub-rule (1) due to the two appointments being at



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different stations, not exceeding the joining time permissible under the rules of transfer, shall be covered by grant of leave of any kind due to the Government servant on the date of relief or by formal condonation to the extent to which the period is not covered by leave due to the Government servant.”

9.As per the said Rule, whenever a member of service resigns from the said post, the member of the said service will forfeit the entire past service and therefore, will not be entitled to receive any pension whatsoever. In view of the said legal position, admittedly the petitioner having resigned from the said post on 01.12.1993 will not be entitled to receive any pension under Tamil Nadu Pension Rules, 1978 and there are no merits in the writ petition. The writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.02.2024.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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