



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-03-2026

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

WP No. 9361 of 2024

V.Sayadevi

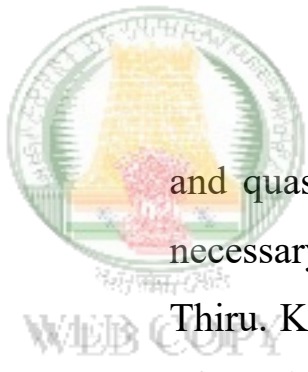
..Petitioner(s)

Vs

1. The Principal Secretary To Government
School Education Department
Fort St. George
Chennai 600 009
2. The Director Of School Education
College Road Chennai- 6
3. The Chief Educational Officer
Salem District
Salem
4. The District Educational Officer
Salem
Salem District
5. The Correspondent
Bharathi Vidyalaya Higher Secondary
School Salem 636 007

..Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the orders passed by the first respondent in Letter No. 22176 / Pa.Ka 6 (2) / 2020-5 dated 04.09.2023



and quash the same and consequently direct the first respondent to pass necessary orders sanctioning the pensionary benefits to Thiru. K.C. Sadhasivam till his death i.e. 01/07/2023 and settle the arrears of pension to the petitioner and thereafter family pension to the petitioner.

For Petitioner(s): Mr.S.Kamadevan

For Respondent(s): M/s.Mythreye Chandru
Special Government Pleader – R1 to R4

R5-Served – No appearance

Order

This writ petition has been filed for the following relief:

“To issue a Writ of Certiorarified Mandamus calling for the records pertaining to the orders passed by the first respondent in Letter No. 22176 / Pa.Ka 6 (2) / 2020-5 dated 04.09.2023 and quash the same and consequently direct the first respondent to pass necessary orders sanctioning the pensionary benefits to Thiru. K.C. Sadhasivam till his death i.e. 01/07/2023 and settle the arrears of pension to the petitioner and thereafter family pension to the petitioner.”



2. It is the case of the petitioner that her husband deceased K.C.Sadhasivam had joined the services of the 5th respondent-institution on 01.07.1963 as an Attender. His services were also subsequently regularised. The 5th respondent-School is an aided school. His post was later re-designated as Record Clerk and he had worked continuously till 22.07.1978. Thereafter, on account of his ill-health, he was unable to attend the work and had submitted his resignation in the year 1980. Therefore, he had requested the institution to settle his terminal benefits.

3. The petitioner would submit that after his health had improved, he had made a representation dated 23.10.1999 to respondents 4 and 5 requesting them to take action and submit necessary proposals to get pensionary benefits as he had rendered more than 15 years of regular service as on 22.07.1978. Though the petitioner's husband had remained absent from duty, no action or disciplinary proceedings had been initiated against him. She had submitted a representation to the Chief Minister's Special Cell on 23.08.2001 which was forwarded to the 3rd respondent for necessary action.



4. The 5th respondent had admitted that the petitioner's husband had worked in the school from 03.07.1963 to 22.07.1978 but stated that the service register was not available. The 2nd respondent had also instructed the 4th respondent by proceedings dated 07.03.2002 to take necessary action after getting pension proposal from the school. Thereafter, the 5th respondent School reported that since the petitioner has resigned his job, he was not entitled to pensionary benefits. The petitioner would submit that the 5th respondent school is governed by the provisions of the Tamil Nadu Private School Regulations Act and the Rules framed therein.

5. The petitioner would submit that her husband had not tendered any resignation as there is no order accepting such resignation in terms of Rule 17-A. Though there are no disciplinary proceedings pending against her husband and only with an intent to avoid paying the benefits to him, the respondents had denied the pensionary benefits. The petitioner's husband had filed W.P.No.29929 of 2006 for considering his representation and by order dated 02.02.2010, this Court directed the respondents to pass appropriate orders on his representation.



6. Pursuant to the orders of this Court, the 1st respondent had passed orders on 23.02.2011 stating that the petitioner's husband, who had resigned from service, is not entitled to avail pension. This was challenged by the petitioner's husband in W.P.No.33944 of 2013 and by order dated 13.07.2020, the Writ Petition was allowed and the respondents were directed to pay the pension every month along with arrears within a period of three months from the date of receipt of a copy of that order. However, the said order had not been complied with. Against this order, the respondents 1 to 4 preferred W.A.No.1129 of 2020. The appeal was disposed of directing the 1st respondent to consider the proposal and pass orders. Thereafter, the impugned order has been passed reiterating the earlier stand that the petitioner's husband had retired on 01.04.1972 and G.O.Ms.No.1015 dated 05.06.1981 would not apply to him. It is challenging the same, the petitioner is before this Court.

7. The 4th respondent has filed a counter in which after conceding the order passed by the Division Bench in W.A.No.2590 of 2018, it is contended that the pension proposal of the petitioner's husband cannot be considered as he did not come under the crucial date mentioned in



G.O.Ms.No.1015 dated 05.06.1981. Hence, they sought for dismissal of the writ petition.

WEB COPY

8. Heard the learned counsels on both sides and perused the materials available on record.

9. A mere perusal of the counter affidavit would itself clearly prove the non-application of mind on the part of the 1st respondent. The Division Bench of this Court in W.A.No.2590 of 2018 had dealt with G.O.Ms.No.1015 dated 05.06.1981 wherein a question was raised as to whether the benefit of the said Government Order could be extended. In the said writ appeal, the Division Bench had also referred to the Government Letter Ms.No.1490, Education dated 26.12.1985 in and by which it was categorically stated that persons who resigned or retired after the crucial date, i.e 05.06.1981 will not be entitled to get the pensionary benefits. The Bench had considered the various judgments submitted on either side and ultimately held as follows:

“13. A cursory look at the above said judgments would show that none of the judgments would apply to the facts of the present case. G.O.Ms.No.1015, Education Department,



WEB COPY

dated 05.06.1981, makes it clear that pension can be sanctioned only in cases, where the incumbents has resigned prior to the crucial dates 05.06.1981, for the reason that they could not have foreseen the institution of pension scheme, at the time when they resigned. G.O.Ms.No.37, Education Science and Technology Department, dated 05.01.1983, clarifies that persons who had resigned prior to 05.06.1981 alone and other crucial dates pertaining to teaching staffs in various institutions, are entitled to pensionary benefits and that too only from the date of 05.06.1981 meaning thereby that they would not be entitled for any amount prior to 05.06.1981”.

10. A reading of the above judgment clearly indicate that the said Government Order is applicable to persons who had resigned or retired prior to 05.06.1981. In the instant case, the petitioner's husband had resigned on 22.06.1978 which is prior to 05.06.1981. Hence, the petitioner is entitled to the relief claimed. Consequently, the impugned order dated 04.09.2023 is set aside and the writ petition is allowed. The respondents are directed to pass final orders sanctioning the pensionary benefits to the



petitioner's husband from the date of resignation till the date of his death,
i.e on 01.07.2023 and settle the pension benefits to the petitioner and also
the family pension. The said exercise shall be completed within a period
of two months from the date of receipt of a copy of this order. No costs.

03-03-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

SRN

To

1. The Principal Secretary To Government
School Education Department
Fort St. George Chennai 600 009
2. The Director Of School Education
College Road Chennai -6
3. The Chief Educational Officer
Salem District Salem
4. The District Educational Officer
Salem Salem District
5. The Correspondent
Bharathi Vidyalaya Higher Secondary School
Salem 636 007



WP No. 9361 of 2



P.T.ASHA J.

SRN

WP No. 9361 of 2024

03-03-2026