

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.8.2004

CORAM:

THE HON'BLE MR.JUSTICE M.CHOCKALINGAM

W.P.NO.20702 OF 2004

and

WP.MP.NOS.24933 OF 2004

Tmt.N.Krishna

...Petitioner

Vs.

1. Corporation of Chennai rep.
by its Commissioner,
Rippon Buildings,
Chennai-3.

2. The Government of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Fort St.George, Chennai-9.

...Respondents

Petition filed under Article 226 of the Constitution of India
praying for the issue of Writ of Certiorari and Mandamus as stated therein.

For Petitioner: Mr.V.Girish kumar
For Respondent No.1: Mr.T.Mathi
For Respondent No.2: Mr.B.Manoharan AGP

O R D E R

Challenge is made to the order of the second respondent in
letter No.21987/MaNa.3/2003-11 dated 25.6.2004 seeking to quash the same
and to direct the respondent to grant pension, gratuity and the
contribution made by her to the provident fund.

2. The Court heard the learned counsel on either side.

3. The case of the petitioner as could be seen from the
submissions in the affidavit in support of the writ petition and also the
submission by the petitioner's counsel is that she was working in various
Corporation Schools since August 1949 and she Voluntarily retired in 1972
and thus she had worked for a period of 15 years, 11 months and 11 days;
that she is entitled for full pension; and that she addressed letters to
the Education Department, Corporation of Madras, for payment of gratuity
and provident fund for the contribution made by the petitioner. While she

was in service, she was required to obtain certificates from the heads of institution where she was working to the effect that she had not availed any advance from the provident fund contribution made by her and also furnish an Indemnity Bond, which was also furnished by the petitioner on 30.9.2003. Though the respondent admitted the services of the petitioner as School teacher, she was granted pension taking into account the services rendered by her and also accepting the certificates produced by her to prove that she was in service. The petitioner also furnished necessary certificates from the heads of institutions and provided Indemnity Bond, as required. Now she received a communication stating that her request cannot be considered and it was rejected. Under such circumstances, she was compelled to file the present writ petition.

4. Contrary to the above, learned counsel for the respondents would submit that it is true that the petitioner was in service till 1967 and that she did not Voluntarily retired, but her services were terminated. It is further submitted that she contested in election and she was in political party and when she applied for job again, her request was rejected.

5. In the earlier writ petition filed by the petitioner in W.P.No.23 of 1993, this Court, considering her age, took a sympathetic view and directed the Government to fix minimum pension by relaxing the rules for minimum pension and the same has been complied with and she is receiving minimum pension till date. Now the petitioner sought for pension, gratuity and provident fund etc., which was rightly rejected on the ground that no sufficient documents are available. Under such circumstances, petitioner is not entitled to get the benefits claimed and it was rightly rejected and hence the writ petition has got to be dismissed.

6. The Court paid its anxious consideration on the submissions made. In the instant case, it is not in controversy that the petitioner was working in various Corporation Schools and aided schools from August 1949. According to the petitioner, she voluntarily retired in 1972, but according to the respondents, she was terminated from service in 1967. However, before filing this case, she approached this Court by filing W.P.No.23 of 1993, where this Court exercised sympathetic consideration and also directed the Government to fix minimum pension by relaxing the rules. At this juncture, even in the year 1993 when she approached this Court, the Court did not order payment of gratuity or fixation of pension as per the rules. The Court has directed for relaxation of the rules for payment of minimum pension, which has been paid till this day. Now the petitioner is making representation to the respondents herein for the purpose of pension, gratuity and also for the benefits of Provident Fund. Further it is pointed out that when the representation was made, no document was filed before the authority. Now what is pointed by the learned counsel for the petitioner is that no duty is cast upon the petitioner to produce the document, because those documents were very much available with the authorities. It is for them to scrutinize those

documents and the Indemnity Bond, executed by her. Now it remains to be stated that once she approached this Court, there was a direction by this Court for relaxation of rules for fixation of minimum pension and after payment of the same, the petitioner has made further representation for pension, gratuity etc., which has been rightly rejected. Merely because of execution of Indemnity bond, the learned counsel for the respondent submitted that no writ could be issued to the authorities to fix pension, gratuity or any other benefits. Under such circumstance, this Court is of the considered opinion that the writ petition is nothing but re-agitation of the entire cause, which was originally done in 1993 and it was originally disposed of. Hence, the writ petition does not carry any merit. The writ petition fails and the same is dismissed. No costs. Consequently, WP.MP.No.24933 of 2004 is also dismissed.

VJY

sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Commissioner,
Corporation of Chennai rep.
Rippon Buildings,
Chennai-3.
2. The Government of Tamil Nadu.
Municipal Administration and
Water Supply Department,
Fort St.George, Chennai-9

+ 1 cc to Mr.V.Girish Kumar Advocate SR.NO.54030
+ 1 cc to Mr.T.Mathi Advocate SR.NO.53963
+ 1 cc to Govt. pleader SR.NO.54404

CV(CO)
rd 12.9.07

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