



WEB COPY



W.P.No.13418 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : **21.06.2023**
DELIVERED ON : **14.07.2023**

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.13418 of 2023
and W.M.P.No.13094 of 2023

Jeya Rajendran

... Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Higher Education Department,
Fort St. George, Chennai – 600 009.

2.The Joint Director of Collegiate Education,
Chennai Region, Chennai – 15.

3.The Secretary,
Loyola College,
Nungambakkam, Chennai – 600 034.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the 2nd respondent's proceedings made in O.Mu.No.7522/Oo.1/2022, dated 24.03.2023, to quash the same and to



W.P.No.13418 of 2023

consequently direct the respondents to regularize the services of the petitioner w.e.f.01.12.1999 and to grant the benefit of pension and pensionary benefits by bringing her under the GPF Scheme and to extend all benefits arising thereto.

For Petitioner : Mr. L.Chandrakumar
For Respondents : Mr.P.Sanjay Gandhi,
Government Advocate for R1 & R2
Ms.H.Mary Sowmi Refi,
M/s.Isaac Chambers for R3

ORDER

The third respondent College is a Minority Aided College. The petitioner had joined the third respondent College in a leave vacancy on 01.07.1997 as Lecturer in the Department of Chemistry. Between 01.12.1999 - 11.04.2000, 23.06.2000 – 23.12.2000 and 22.06.2001 – 26.02.2002, she served as a leave substitute in the approved post. Thereafter, she was permanently absorbed on 19.06.2006 as an Assistant Professor.

2. At the time of initial appointment, she was assigned with the GPF number by the third respondent college. However, she was



W.P.No.13418 of 2023

WEB COPY

mistakenly brought under CPS by the Department of Collegiate Education in the year 2012, as if her appointment was made with effect from 2006. When the College has sought for rectification of mistake by producing service certificate of the petitioner, the second respondent herein, through the proceedings dated 11.03.2020 had allowed the rectification sought for and issued a memorandum of service and leave, approving the appointment of the petitioner for the period between 01.12.1999 - 11.04.2000, 23.06.2000 – 23.12.2000 and 22.06.2001 – 26.02.2002.

3. In this background, when the petitioner had sought for inclusion of her services for the period between 01.07.1997 and 20.10.2006 for the purpose of grant of pension and other pensionary benefits, the same was rejected through the impugned order dated 24.03.2023, by stating that her services were regularised with effect from 19.06.2006 and therefore, the services from 1997 to 2006 cannot be considered. Challenging the same, the present Writ Petition has been filed.



WEB COPY



W.P.No.13418 of 2023

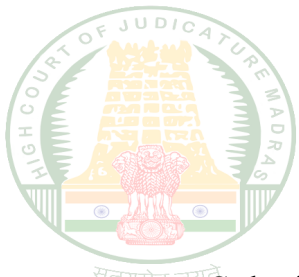
4. The petitioner has now attained the age of superannuation in the month of May 2023.

5. The learned counsel for the petitioner submitted that in view of the proceedings of the second respondent approving the petitioner's service for the period between 01.12.1999 and 26.02.2002, non inclusion of this period for the purpose of service and other pensionary benefits is illegal.

6. Per contra, the learned Government Advocate submitted that the petitioner's service was regularised only from 19.06.2006 and therefore, inclusion of her past service from 1997 is impermissible.

7. The learned counsel for the third respondent supported the case of the petitioner and confirmed that the petitioner had been in services from 01.07.1997 onwards.

8. The Commissioner of Collegiate Education had proposed to the Government that the service period of a Teacher rendered as 'FIP



W.P.No.13418 of 2023

WEB COPY

Substitute' in the sanctioned vacancy arising out of deputation of a regular teacher for M.Phil or Ph.D, should also be reckoned for computing the total length of service for the purpose of career advancement. The Government had accepted the proposal and directed that such services in a FIP vacancy for more than a year shall be counted for the purpose of career advancement in the revised University Grants Commission scales of pay subject to certain conditions, through G.O.(1D)No.115, Education Science and Technology Department dated 17.09.1996.

9. It is not the case of the respondents that there is no provision for counting of past services in leave vacancies arising in a sanctioned post. The only reason assigned by the second respondent in the impugned order is that the petitioner's service was regularised only from 19.06.2006 and therefore, the past service cannot be taken into account. When the second respondent himself has approved the services of the petitioner for the period between 01.12.1999 - 11.04.2000, 23.06.2000 – 23.12.2000 and 22.06.2001 – 26.02.2002, and thereafter her services was regularised with effect from 19.06.2006, I am unable to



W.P.No.13418 of 2023

WEB COPY

comprehend as to how such past services can be ignored. The respondents have failed to take into account that while the Government had sanctioned 600 posts of Assistant Professors to the Aided Colleges, the petitioner was one among the 28 posts sanctioned to the third respondent College. It is not in dispute that the petitioner had been serving the third respondent College from 01.07.1997 onwards without any break, during which period, she had also served in the leave vacancies of the sanctioned post. This aspect having been recognized by the second respondent themselves in their proceedings dated 11.03.2020, cannot now ignore or disregard such recognition. Thus, the impugned order refusing the counting of the past services of the petitioner in this regard cannot be sustained.

10. Accordingly, the impugned order dated 24.03.2023 on the file of the second respondent is quashed. Consequently, there shall be a direction to the respondents 1 and 2 herein to pass appropriate orders by including the petitioner's services for a period of 1 year six months and 17 days between 01.12.1999 - 11.04.2000, 23.06.2000 – 23.12.2000 and 22.06.2001 – 26.02.2002 and thereby extend all the



W.P.No.13418 of 2023

WEB COPY

services and monetary benefits for the said period. Such an order shall also include the pensionary benefits. This order shall be passed atleast within a period of four (4) weeks from the date of receipt of a copy of this order.

11. The Writ Petition is allowed accordingly. No costs.

Consequently, connected miscellaneous petition is closed.

14.07.2023

Index: Yes

Neutral Citation: Yes

Order : Speaking

vsm

To

1. The Principal Secretary,
State of Tamil Nadu,
Higher Education Department,
Fort St. George, Chennai – 600 009.

2. The Joint Director of Collegiate Education,
Chennai Region, Chennai – 15.



WEB COPY



W.P.No.13418 of 2023

M.S.RAMESH,J.

vsm

**Order made in
W.P.No.13418 of 2023
and W.M.P.No.13094 of 2023**

14.07.2023