
(2010) 10 KL CK 0203

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 23987 of 2009 (P)

A.J. Joseph

APPELLANT

Vs

State of Kerala and Principal, St. Stephen's College

RESPONDENT

Date of Decision : 29-10-2010

Acts Referred:

Citation : (2010) 10 KL CK 0203

Hon'ble Judges : T.R. Ramachandran Nair, J

Bench : Single Bench

Advocate : Siji Antony, for the Appellant; Government Pleader, for the Respondent

Judgement

T.R. Ramachandran Nair, J.—The petitioner who retired from an aided college is aggrieved by that part of Ext.P6 order whereby the Government has refused to reckon the service as LPSA/HSA for the purpose of granting pension.

2. The petitioner retired as Selection Grade Lecturer with effect from 31/03/2008 from the Economics Department of St. Stephen's College, Uzhavoor. He had put in continuous service with effect from 07/06/1993. He claimed a total of 25 years qualifying service for pension. This includes total continuous service of 14 years 5 months 23 days (+) Collegiate provisional service of 4 years 10 months (+) High School service of 5 years 3 months and 13 days. Before his appointment as permanent College Lecturer, he had put in aided school service and Collegiate service in 11 spells between the period 16.10.1980 to 29.01.1993, the total period of such service was 10 years 1 month and 16 days. Accordingly, it is contended that the total service eligible for pension is 24 years 17 months and 6 days (rounded to 25 years). Ext.P1 is the relevant pages of the pension book. It was forwarded by the second respondent to the Accountant General by Ext.P3. Without reckoning the aided school and broken collegiate service, pension was sanctioned which prompted the petitioner to file Ext.P5 representation before the Government. Ext.P5 contains details of various spells of aided school service and private college service. Ultimately, his claim was partly allowed by Ext.P6,

reckoning the service under the department of Collegiate education for pension but the aided school service was not reckoned.

3. The learned Counsel for the petitioner submits that as far as reckoning of aided school service put in by Private College Teachers are concerned, the Government had issued G.O.(MS). No. 56/87/H.Edn. dated 21/02/1987 wherein it is provided that "the actual period of service in Government/Aided Schools put in by those Private College Teachers who have opted for Chapter III of the Pension Statutes, 1976 will be reckoned as qualifying service for pension". Thereafter, the Government issued Ext.P7 order No. (MS) 255/88/H.Edn., dated 01/12/1988 based on a letter of the Accountant General introducing two more conditions for reckoning aided school service of Private College Teachers. It is therefore submitted that these two Government Orders will apply as far as the case of the petitioner is concerned. Ext.P8 is the copy of the Government Order No. (P) 2357/99/Fin., dated 25/11/1999 which provides for reckoning of provisional service. It is pointed out that as far as reckoning of aided school service is concerned, the earlier two Government Orders will apply and therefore, the view taken in Ext.P6 that the aided school service will not come within the purview of Ext.P8 Government Order is not correct.

4. The first respondent has filed a counter affidavit. What is pointed out there is that the various spells of service were clearly against leave vacancies which will not come within the purview of Ext.P8. Therefore, it is contended that in the case of the petitioner, his provisional service except the period worked as Lecturer did not satisfy the conditions specified in Government Order dated 25/11/1999(Ext.P8).

5. The question therefore is whether the petitioner is entitled for the benefit of G.O.(MS) No. 56/87/H.Edn. dated 21/02/1987 which was modified by GO.(MS). No. 255/88/H.Edn., dated 01/12/1988 (Ext.P7). Plainly, as far as aided school teachers who had served the private college they are governed by the provisions of the said Government Orders, Ext.P8 will apply with respect to the reckoning of provisional service in other cases obviously. The claim being rested upon G.O. (MS). No. 56/87/H.Edn. dated 21/02/1987 and Ext.P7, the same has to be applied. What is pointed out in the counter affidavit is that his aided school service is provisional. Probably, the contention is that since he was appointed during different spells, the same will be only provisional service. As far as Aided School Teachers are concerned, if the appointment covers the prescribed period, then the appointments will be approved and, there is no nomenclature as provisional in respect of such appointments. It is pointed out by the learned Counsel for the petitioner that all the appointments during different spells have been approved. Therefore, they are liable to be recognised also for pension. In that view of the matter, Ext.P6 to the extent to which it refuses to reckon the aided school service for the purpose of granting pension and other benefits is quashed. There will be a direction to the Government to pass appropriate orders after reckoning the aided school service (5 years 3 months 13 days) as per

Ext.P2 also for pensionary benefits and appropriate orders will be passed within a period of three months from the date of receipt of a copy of this Judgment.

The writ petition is disposed of as above. No costs.