



W.P.(MD).No.10631 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

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C.Saroja

... Petitioner

Vs.

1.The Director Elementary Educational Officer,
Director of Elementary Education Office,
D.P.I. College Road,
Chennai – 600 006.

2.The District Elementary Educational Officer,
District Elementary Education Office,
Sethuraman Pillai Colony,
Trichy.

3.The Additional Assistant Elementary
Educational Officer,
Musiri, Trichy.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the third respondent in his proceedings நக.எண்.1399/அ2/2014 dated 08.10.2014 and quash the same as illegal and consequently to direct the respondents to disburse the salary for the period of reemployment from 01.07.2009 to 30.05.2010 with all other monetary benefits and allowances within the period that may be stipulated by this Court.



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For Petitioner : Mr.Mohamed Suhail,
For M/s.Ajmal Associates.

For Respondents : Mr.V.Omprakash,
Government Advocate.

ORDER

This Writ Petition is filed challenging the impugned order dated 08.10.2014 with a consequential relief to direct the respondents to disburse the salary for the period of reemployment from 01.07.2009 to 30.05.2010 with all other monetary benefits and allowances.

2. The petitioner was initially appointed as Secondary Grade Teacher on 20.11.1973 and thereafter promoted as Headmistress and was taking classes for 7th and 8th Standard students in English and Social Science. The Petitioner lost her husband on 29.05.2009. Hence, the petitioner took medical leave from 02.06.2009 to 21.06.2009 and joined as Middle School Headmistress on 22.06.2009. In the meanwhile, the petitioner attained superannuation on 30.06.2009. The contention of the petitioner is that she was entitled for reemployment based on various Government Orders till the academic year. The petitioner had requested for re-employment. However, the respondents had not come forward to act on the representation either to retire the petitioner from service on superannuation on 30.06.2009 or provide reemployment for the



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academic year 2009-2010. Again the petitioner approached the third respondent for reemployment, but the third respondent had orally stated that the order of reemployment will be communicated as soon as possible, believing the words the petitioner attended the School till 03.07.2009 as per the direction of the third respondent. The petitioner had also participated in the reinforcement training for a period from 04.07.2009 to 06.07.2009. Again, the petitioner approached the respondents for reemployment. However, the respondents had refused. Subsequently, the petitioner had filed Writ Petition in W.P.(MD)No. 13088 of 2010 for Mandamus directing the respondents to disburse the salary for a period of reemployment from 01.07.2009 to 30.05.2010. This Court has directed to consider the petitioner's representation dated 24.09.2010 during which the petitioner was engaged and thereafter pass appropriate orders in the light of the judgment rendered in *Correspondent Secretary and Managing Trustee, Salem Vs M.Rajagopalan and others* reported in 2008 (1) MLJ 312. Since the respondents have not granted the same, the petitioner again approached the respondents. Finally, the respondents have passed an impugned order stating that the petitioner was relieved on 30.06.2009 and the petitioner was also receiving terminal benefits and pension from 01.07.2009. The petitioner had not served from 01.07.2009 to 30.05.2010. Hence the petitioner is not entitled to salary. Aggrieved over such order, the petitioner has filed this

Writ Petition.

<https://www.mhc.tn.gov.in/judis>



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3. The respondents have filed a counter stating that after retirement, the petitioner approached the third respondent seeking reemployment. On 01.07.2009, Thiruthiyamalai Panchayat Union Middle School was upgraded to High School. The Middle School Headmaster post was transferred to High School and the students in Standard 6, 7 and 8th were transferred to High School. After upgradation, there was no Middle School and the post of Middle School Headmaster was also not available. The petitioner was relieved from service on 30.06.2009 and it is an admitted fact that the petitioner was not provided with any reemployment from 01.07.2009 until 30.05.2010. Since the petitioner was not working in the reemployment period, the petitioner cannot seek any salary for the said period. Moreover, the reemployment is not a right and the same is not automatic. Therefore, the respondents prayed to dismiss the Writ Petition.

4. Heard Mr.Mohamed Suhail, For M/s.Ajmal Associates, learned counsel appearing for the petitioner and Mr.V.Omprakash, learned Government Advocate, appearing for the respondents.

5. The reemployment was granted based on G.O.Ms.No.1643 Education

U2 Department dated 27.10.1988 and the teacher is entitled to be considered

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for reemployment if the character and conduct of the teachers are satisfactory and physical fitness. Subsequently, another G.O was passed wherein it is stated that the teacher should not undergo any punishment on account of disciplinary proceedings. If the aforesaid conditions are satisfied, then the teacher is entitled for reemployment.

6. Subsequently, the Government has taken a policy decision if there is any surplus teacher available then the teacher is not entitled to reemployment and issued G.O. Ms. No. 261 School Education 5(2) dated 20.12.2018. But in the present case, due to peculiar facts the petitioner could not granted reemployment. Since the School was upgraded from Middle School to High School, the post which the petitioner was holding as Middle School Headmaster was no longer available. Therefore, the petitioner cannot be granted reemployment. Hence, this Court is absolutely convinced with the reasons stated in the counter when the post is not available, the respondents cannot be forced to grant reemployment to the petitioner. It is an admitted fact that the petitioner has not served in the reemployment period and under the principles of 'No Work No Pay', the petitioner is not entitled to the salary. Therefore, this Court is not inclined to entertain this Writ Petition.



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7. With the above observation, this Writ Petition is dismissed. There shall be no order as to costs.

05.04.2023

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

To

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S.SRIMATHY, J.

Nsr

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