

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.9.2015.

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.30750 of 2015

and

M.P.No.1 of 2015

D.Mohan

Petitioner

vs.

- 1 Central Board of Secondary Education Rep by its Secretary
PS 1-2 - Institutional Area I.P.Extn
Patparangi Delhi 110 092
having its Regional Office at
Plot 1630 A "J" Block 16th Main Road
Chennai 600 040
 - 2 The Director
Ordinance Factory Board
Esplanade East Calcutta 700 069
 - 3 The General Manager
Heavy Vehicle Factory Avadi Chennai 600 054.
 - 4 The Chairman
HVF English Medium Educational Society
Vijayanta Senior Secondary School
H.V.F.Estate Avadi Chennai 600 054
 - 5 The Secretary
HVF English Medium Educational Society
Vijayanta Senior Secondary School
H.V.F. Estate Avadi Chennai 600 054
- Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondent to treat the service of the petitioner as one in regular service till 11.11.2017 and pay the benefits to which he is entitled to.

For Petitioner : Mrs.V.Srimathi

For R1 : Mr.G.Nagarajan

ORDER

By consent, the writ petition is taken up for final disposal.

2. The petitioner would state that his date of birth is 11.11.1957 and he joined service on 25.8.1986 as Trainee Graduate Teacher and he claims to have been discharging his duties without any adverse remarks for the past 29 years. The apprehension expressed by the petitioner is that his age of retirement is 60 years and attempts are being made by respondents 4 and 5 to retire him on his attaining the age of superannuation during November 2015. In this regard, he has submitted a representation dated 18.8.2015 to the fourth respondent inviting his attention to Rule 30 of CBSE Bye laws which stipulates that the age of superannuation is 60 years and if the age of superannuation falls during the academic session, the employee concerned will retire at the end of the academic session. Therefore, the petitioner would claim that he is entitled to continue in service till 30.11.2017 and expressed the apprehension that he would be made to retire during November 2015 and hence, came forward to file this writ petition.

3. Mrs.V.Srimathi, learned counsel appearing for the petitioner would contend that in a similar facts and circumstances, this court, vide orders dated 4.11.2009, 30.10.2009 and 1.7.2009 in W.P.Nos.17285 and 17266 of 2009, W.P.Nos.22059 to 22061 of 2009 and W.P.No.11878 of 2009, had granted interim relief permitting the petitioners therein to continue in service till the age of 60 years and since the petitioner is similarly placed, the same benefits may be conferred on him.

4. Heard Mr.G.Nagarajan, learned who accepts notice for the Central Board of Secondary Education.

5. Rule 30 of the CBSE Bye laws reads as follows:-

"30. RETIREMENT

1. Notwithstanding anything contained in these rules or otherwise every employee including Head of institution shall retire from service on attaining the age of 60. However if the age of superannuation falls during the academic session, the concerned employee will retire at the end of the academic session.

.... ."

6. Though the petitioner prayed for a larger relief, this court, in the light of the above facts and circumstances, permits fourth respondent to consider and dispose of the petitioner's representation dated 18.8.2015 on merits and in accordance with law, in the light of the abovesaid Rules and orders passed by this court, after providing

the an opportunity of personal hearing to the petitioner and pass orders within a period of four weeks from the date of receipt of copy of this order and communicate the decision to the writ petitioner and till then, further decision to retire the petitioner on attaining the age of 58 years during November 2015 shall be deferred.

7. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssk.
To

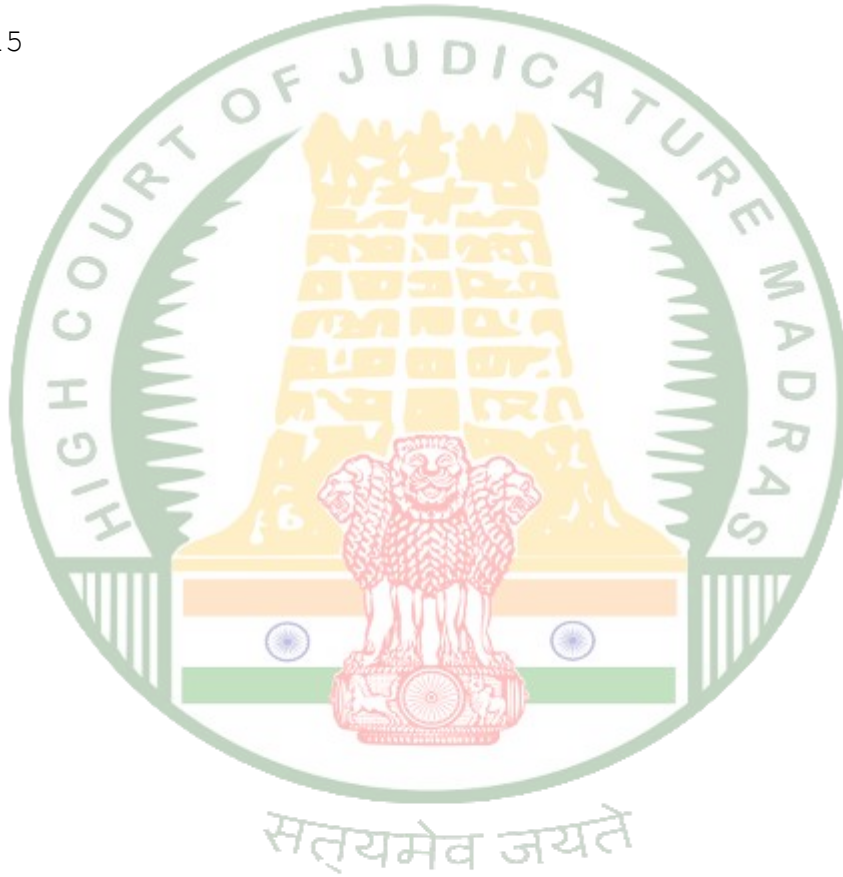
- 1 The Secretary,
Central Board of Secondary
Education
PS 1-2 - Institutional Area I.P.Extn
Patparangi Delhi 110 092
having its Regional Office at
Plot 1630 A "J" Block
16th Main Road Chennai 40
- 2 The Director
Ordinance Factory Board
Esplanade East
Calcutta 700 069
- 3 The General Manager
Heavy Vehicle Factory Avadi
Chennai 600 054.
- 4 The Chairman
HVF English Medium Educational Society
Vijayanta Senior Secondary School
H.V.F.Estate Avadi
Chennai 600 054

5 The Secretary
HVF English Medium Educational Society
Vijayanta Senior Secondary School
H.V.F. Estate Avadi
Chennai 600 054

+1 cc to Mr.V.Raghavachari Advocate sr.53157

W.P.No.30750 of 2015

aa5/10/2015



WEB COPY