

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.2576 of 2007

S.Moorthy 1

... petitioner

Versus

The Joint Director of School Education,
(Higher Secondary Course)
College Road,
Chennai - 600 006.

... Respondent

Prayer: This Writ Petition came to be numbered under Article 226 of the Constitution of India by way of transfer of O.A.No.2347 of 2004 from the file of Tamil Nadu Administrative Tribunal with a prayer to call for the records relating to the order of the respondent dated 23.09.2003 issued in the Ref.மு.மு.No.7850/W3/2003 and quash the same and further directing the respondent to request the period from 24.09.1998 to 19.08.2000 as duty period and to award salary and other consequential benefits.

For petitioner : Mr.R.Muthukannu

For Respondent : Mr.K.V.Dhanapalan,
Additional Government Pleader.

सत्यमेव जयते
O R D E R

Mr.S.Moorthy filed O.A.No.2347 of 2004 on the file the Tamil Nadu Administrative Tribunal seeking for a direction to quash the impugned order dated 23.09.2003 issued in Ref.மு.மு.No.7850/W3/2003 with a consequential direction to the respondent to treat the period from 24.09.1998 to 19.08.2000 as duty period and thereupon to award salary therefor.

2. The petitioner was transferred by order dated 18.09.1998 issued by the Chief Educational Officer, Pudukkottai in Rc.No.3035/A2/98. Challenging the same in O.A.No.4031 of 1999, the petitioner obtained an order of stay stating that there shall be a

stay till the disposal of the appeal to be filed by the petitioner. Subsequently, he was transferred by another order passed by the Joint Director of School Education (Higher Secondary), Chennai in R.C.No.79636/W3/99 dated 10.11.1999. Challenging the same, the petitioner again filed another O.A.No.1275 of 2000 before the Administrative Tribunal and obtained another interim order of stay on 04.04.2000. Once again, the petitioner approached with M.A.No.4688 of 2000 in O.A.No.1275 of 2000, seeking permission to report at Govt. Girls Higher Secondary School, Kovilpatti without prejudice to the case pending. The Tribunal accepting his request, direction was given to him to join duty within a period of one week. However, when O.A.No.1275 of 2000 was dismissed by the learned Tribunal, the petitioner filed W.P.No.44060 pf 20002 before this Court and the same also came to be disposed of by order dated 31.12.2002 holding that the petitioner, who was transferred to girls school, may be transferred to boys school in the vicinity of the school. Therefore, the prayer of the petitioner is that when all along the petitioner was enjoying the order of stay against the transfer order from 24.09.1998 to 01.08.2000, he is entitled to get salary and as the petitioner was not paid with salary, direction should be issued to the respondent to treat the said period as duty period and to grant salary therefor.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent.

4. The records would show that the petitioner having suffered an order of transfer dated 18.09.1998 issued by the Chief Educational Officer, Pudukkottai and obtained an order of stay, wherein, it is stated that the petitioner was directed to approach the Appellate Authority within 10 days. On such appeal be preferred by the petitioner, the Appellate Authority was directed to dispose of the same on merits within three months thereafter. Subsequently, the petitioner again moved C.A.No.252 of 1999 in O.A.No.4031 of 1999 seeking direction to punish the respondent for disobeying the direction given in O.A.No.4031 of 1999. However, the learned Tribunal by order dated 08.02.2000, closed the contempt application. Thereafter, he was issued with an order of transfer dated 10.11.1999 in R.C.No.7936/W3/99 by the Joint Director of School Education, (Higher Secondary) Chennai. Challenging the same, petitioner filed second O.A.No.1275 of 2000 pending disposal of an order of stay was granted on 04.04.2000. Again the petitioner moved M.A.No.4688 of 2000 in O.A.No.1275 of 2000, seeking direction to the respondent to permit him to report for duty on Govt. Girls Higher Secondary School, Kovilpatti without prejudice to the pending matter. The said direction was also given to the petitioner to join duty in the said place. Thereafter, the second O.A.No.1275 of 2000 was dismissed.

5. After dismissal of the said O.A., the petitioner moved another writ petition in W.P.44060 of 2002. By order dated 31.12.2002, the same was disposed of giving direction to the respondent to post him in any of the boys school instead of girls school. When the petitioner for the first time had obtained an order of stay against the transfer order dated 18.09.1998, he cannot ask for direction to treat the period commencing from 24.09.1998 to 01.08.2000 as duty period. When he obtained an order of stay in O.A.No.4031 of 1999, he cannot say that he is entitled to treat the period commencing from 24.09.1998 to 01.08.2000 as the duty period. Since the petitioner has not come to the Court with clean hands, this writ petition is dismissed. No costs.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

vsm

To

The Joint Director of School Education,
(Higher Secondary Course)
College Road,
Chennai - 600 006.

1 cc to Government Pleader, sr. 13637

W.P.No.2576 of 2007

TEJ (CO)
kk 26/5

सत्यमेव जयते

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