



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.02.2015

CORAM:
THE HONOURABLE DR. JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR. JUSTICE V.S.RAVI

W.A. (MD) No. 75 of 2015
and
M.P. (MD) No. 1 of 2015

Jo.Victor Devaraj

... Appellant/Petitioner

Vs.

1.The District Elementary Educational Officer,
Trichy District, Trichy District.

2.The Assistant Elementary Educational Officer,
Trichy District, Trichy.

... Respondents/ Respondents

PRAYER: The Writ Appeal is filed under Clause 15 of Letters Patent Act, against the order dated 04.12.2014 passed in W.P. (MD) No. 19711 of 2014.

PRAYER IN W.P. (MD) No. 19711 of 2014: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order issued by the second respondent in his proceeding No. Na Ka 599 Aa2/2014, dated 30.09.2014 and quash the same and consequently direct the respondents herein to permit the petitioner to continue in his post till the end of the academic year.

For Appellant : Mr.S.Muthukrishnan
For Respondents : Mr.N.Manoharan, Spl.G.P.

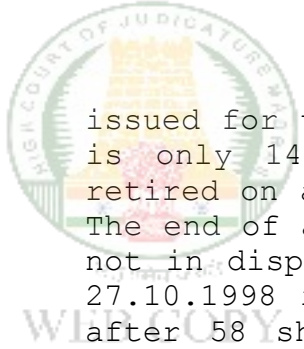
JUDGMENT

(Judgment of this Court was delivered by S.TAMILVANAN, J.)

As there is consensus between the parties for disposal of the Writ Appeal, we find it just and reasonable to take up the Writ Appeal itself for disposal.

2.Challenging the order dated 04.12.2014 passed by the Learned Single Judge in W.P. (MD) No. 19711 of 2014, the Writ Appeal has been preferred.

3.Learned counsel appearing for the appellant / petitioner submitted that the petitioner Mr. Jo.Victor Devaraj is the Headmaster of R.C. Model School. As per his school certificate, his date of birth is 14.09.1956 and the same was accepted by the authorities and that was also entered into his service register. In this Writ petition the date of birth 14.09.1956 of the petitioner is not in dispute. Learned counsel appearing for the petitioner also produced the S.S.L.C. certificate



issued for the appellant / petitioner, which shows that his date of birth is only 14.09.1956, hence, as per his date of birth, he would have retired on attaining superannuation only at the end of the academic year. The end of academic year for the said period is 31.05.2015, which is also not in dispute. As per G.O.Ms.No.1643, Education (U2) Department, dated 27.10.1998 it is made clear that for continuance of service of a teacher after 58 shall be, till the end of the academic year, subject to two conditions that have been stipulated in the Government Order, which reads as follows:

"1)The character and the conduct of the teacher should be satisfactory

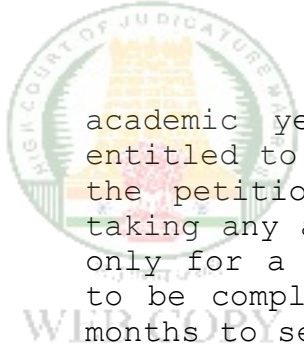
2)They should be physically fit to continue in service."

It is not in dispute that there was no disciplinary action or enquiry pending against the appellant / petitioner and the petitioner has unblemished record of service. It is also brought to the notice that the Correspondent of R.C. Model School, Contonment, Trichy passed an order, which is available at page No.4 of the typed set of papers, wherein, it is stated that the appellant / Writ petitioner is medically tested and certified that he is physically fit to continue his service till the date of superannuation. Accordingly, after his retirement on 13.09.2014, re-appointment has to be made pursuant to the aforesaid G.O. i.e., from 01.10.2014 to 31.05.2015 i.e., till the end of the academic year. Therefore, the aforesaid certificate shows that the appellant / petitioner has been maintaining character and conduct to the satisfaction of his superiors and others and also physically fit to continue his service upto 31.05.2015 i.e., till the end of the academic year. However, it is seen that he was not given continuance of service merely on the ground that there was surplus of teachers which is unreasonable. The aforesaid G.O.Ms.No.1643 dated 27.10.1988 categorically imposes only two conditions further condition cannot be imposed by the authorities in providing continuance of service till the end of the academic year, which amounts to denial of right to the petitioner.

4.Having gone through the G.O.and the material papers relating to the petitioner, we find no proper reason in the order passed by the Learned Single Judge to justify the defence raised by the respondents. The reasons stated as surplus staff cannot be accepted for not extending the service of the petitioner till the end of the academic year in view of the aforesaid G.O.Ms.No.1643 dated 27.10.1988, which is arbitrary and against the mandate of the said Government Order. The appellant / petitioner is having unblemished record of service and the certificate issued by the Correspondent of R.C. Model School would show that the appellant / petitioner is also physically fit to continue his serve and hence, he could have been permitted to continue his service till the end of the academic year i.e., till 31.05.2015 in view of G.O.Ms.No.1643, dated 27.10.1988, however, the same has not been considered in the impugned order dated 04.12.2014.

5.On the aforesaid facts and circumstances, we are of the view that the Writ Appeal has to be allowed, to meet the ends of justice.

6.Accordingly, the Writ Appeal is allowed and the relief sought for by the appellant / petitioner is granted as prayed for. The respondents are directed to permit the appellant / petitioner to continue his service in the same school in the same cadre till the end of the



academic year i.e.31.05.2015 and the appellant / petitioner is also entitled to get the salary and other benefits as per the Rules. However, the petitioner is not entitled to function as regular Headmaster for taking any administration decision in view of the continuation of service only for a short period and also on the facts and circumstances. Order to be complied forthwith, since the appellant / petitioner has only few months to serve till the end of the academic year ie., 31.05.2015.

No costs. Consequently, connected M.P.is closed.

SD/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

nbg

To

1.The District Elementary Educational Officer,
Trichy District, Trichy District.

2.The Assistant Elementary Educational Officer,
Trichy District, Trichy.

+1cc to MR. S.MuthuKrishnan, Advocate Sr NO.6605

+1cc to Special Government Pleader Sr No.7024

W.A. (MD) No.75 of 2015
12.02.2015

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