

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08.09.2016

Coram:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

W.P.No.33201 of 2014

and

M.P.No.1 of 2014

G. Prabakaran

... Petitioner

Vs

1.District Educational Officer
Chengalpattu
Kanchipuram.

2.Chief Education Officer
Kancheepuram District
Kancheepuram.

3.A.J.S. Nidhi Higher Secondary School
Rep.by its Secretary
Alandhur
Chennai-16.

....Respondents

Prayer : This writ petition has been filed to issue a Writ of Mandamus, directing the respondents 1 to 3 to pay the retirement benefits viz., Gratuity, Provident Fund, Pension and all other benefits payable to the petitioner for the services rendered by him from 1985 to 30.06.2014 in the third respondent School together with interest at the rate of 18% p.a. from 1.7.2014 till the date of actual payment to the petitioner.

For Petitioner : M/s.Selvathiru Murugan

For Respondents Nos.1 & 2 : Mr.P. Sanjai Gandhi

For Respondent No.3 : Mr.R.S.Varadarajan

for Ram & Rajan Associates

O R D E R

Heard.

2. This writ petition has been filed, praying that this Court may be pleased to issue a Writ of Mandamus, directing the respondents 1 to 3 to pay the retirement benefits, viz., Gratuity, Provident Fund, Pension and all other benefits, payable to the petitioner, for the services rendered by him,

from 1985 to 30.06.2014, in the third respondent School, together with interest, at the rate of 18% p.a., from 1.7.2014, till the date of actual payment to the petitioner.

3. The petitioner has stated that he had completed B.Sc. Physics and B.Ed. Degree Courses, based on which he had been selected and appointed as Bachelor of Teaching Assistant, (hereinafter referred to as 'B.T. Assistant'), in the third respondent School, on 14.3.1985. During the year 1987, the petitioner had passed M.Ed. Degree Course. Thereafter, he had obtained his Post Graduate Degree, in M.Sc. Physics, from the Annamalai University, in the year, 1992.

4. It had been further stated that he had been promoted to the post of Post Graduate Assistant (hereinafter referred as 'P.G. Assistant'), from 20.7.2000, based on the said Post Graduate Degree. However, on verification of the certificates, produced by the petitioner, relating to M.Sc. Physics Degree Course, said to have been issued by the Annamalai University, they had been found to be bogus in nature. After issuing a show cause notice to the petitioner, an enquiry was conducted. In the enquiry, since the charges had been proved, the petitioner was reverted to the post of B.T. Assistant, on 21.1.2013. The petitioner had also repaid a sum of Rs.1,60,646/-, being the difference amount between the salary of P.G. Assistant and the B.T. Assistant. Though the petitioner had retired from service, on 30.6.2014, on attaining the age of superannuation, the respondents have not settled the retirement benefits, due to the petitioner, for the services rendered as B.T. Assistant, from 14.3.1985, till the date of his superannuation.

5. In such circumstances, the petitioner has preferred the present writ petition, before this Court, under Article 226 of the Constitution of India.

6. A counter affidavit has been filed on behalf of the first respondent stating that the issue relating to the genuineness of the certificates issued by Annamalai University, in respect of M.Sc. Physics Degree Course, which the petitioner is said to have completed, is under scrutiny. A First Information Report had also been registered on the file of the Inspector of Police, Saint Thomas Mount, Chennai, on 2.12.2011, based on the complaint made by the third respondent.

7. It has been further stated that the petitioner had been permitted to work, in the third respondent School, by demoting him from the post of P.G. Assistant to the post of B.T. Assistant, as the certificates of the petitioner, relating to B.Sc. Physics and B.Ed. Degree Courses were found to be genuine and they were sufficient for being qualified to hold the post of B.T. Assistant.

8. It had also been stated that the petitioner was permitted to work, as a B.T. Assistant, on the following conditions:-

"a. He should be paid the pay which he has drawn in the post of B.T. Assistant with effect from the date of joining duty as B.T. Assistant.

b. Follow up action should be taken after receipt of final orders on the F.I.R. No.1114/2012.

c. If he is not eligible for the post of P.G., he/the management should not ask any pay in later date.

d. No claim from Government should be made for the period of service rendered as P.G. Assistant.

e. Periodical annual increment should be sanctioned only after the receipt of final orders."

9. In view of the submissions made by the learned counsel, appearing on behalf of the petitioner, as well as the respondents and in view of the counter affidavit filed on behalf of the respondents 1 and 3, it is clear that the petitioner had been permitted to work in the third respondent School as a B.T. Assistant, based on his B.Sc. Physics and B.Ed., Degree Course certificates, which had been found to be genuine in nature.

10. It is not in dispute that the petitioner had been working in the third respondent School, as a B.T. Assistant, from 14.3.1985, till the date of his superannuation, on 30.6.2014.

11. It is also noted that, since the petitioner had been permitted to work as a B.T. Assistant, in the third respondent School, after reverting him, from the post of P.G. Assistant, he had repaid a sum of Rs.1,60,646/-, being the difference amount, between the salary of P.G. Assistant and the B.T. Assistant. He had also retired from service, on 30.6.2014.

12. In such circumstances, this Court is of the view that the petitioner is entitled to the retirement benefits, due to him, as a B.T. Assistant. Hence, the third respondent is directed to send a proposal to the first respondent, as well as to the second respondent, within a period of four weeks, from the date of receipt of a copy of this order and on receipt of such proposal, the first respondent shall consider the same and pass appropriate orders thereon, granting the retirement benefits due to the petitioner, as a B.T. Assistant, from 14.3.1985 to 30.6.2014, within a period of 12 weeks thereafter. However, it

goes without saying that the authorities concerned, can take appropriate action against the petitioner, with regard to the genuineness of the certificates produced by him, relating to M.Sc. Physics Degree Course, said to have been obtained, from Annamalai University, in the manner known to law.

The writ petition is disposed of, with the above directions. No costs. Consequently, connected M.P. is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rnb

To

1.District Educational Officer
Chengalpattu
Kanchipuram.

2.Chief Education Officer
Kancheepuram District
Kancheepuram.

3.The Secretary,
A.J.S. Nidhi Higher Secondary School
Alandhur, Chennai-16.

+2 ccs to Mr.S. Selvathirumurugan, Advocate Sr.50940
+ 1 cc to Government Pleader SR.51303

W.P.No.33201 of 2014
and
M.P.No.1 of 2014

SV(CO)
Eu 26.10.16

WEB COPY