

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE R.MAHADEVAN

W.A.No.1347 of 2008 and
M.P.No.1 of 2008

- 1.The Director of School Education,
Madras - 600 006.
- 2.The Chief Educational Officer,
South Arcot Vallalar District,
Cuddalore.
- 3.The District Educational Officer,
Cuddalore Educational District,
Cuddalore. .. Appellants/Respondents

Vs.

R.Thirusangumurthy .. Respondent/Petitioner

Appeal filed under Clause 15 of Letters Patent against the order dated 23.06.2008 made in W.P.No.21796 of 2006 on the file of this Court.

Writ Petition filed under Article 226 of the Constitution of India on being transferred to this Court on the abolition of the TamilNadu Administrative Tribunal praying for the issuance of a Writ of Certiorari to call for the records on the file of the second Respondent in Connection with the order passed by him in this proceedings in No. Na.Na.Ka.No.12711/A1/96 dated 30.10.1996 and quash the same.

For Appellants .. Mr.T.N.Rajagopalan
Special Govt. Pleader (Edn.)

For Respondent .. No Appearance

JUDGMENT

(Judgment of the Court was made by The Hon'ble Chief Justice)

The respondent was aggrieved by the order dated 30.10.1996 issued by appellant No.2 refusing re-employment to him as Headmaster. The respondent, initially approached the Tamil Nadu Administrative Tribunal by filing O.A.No.1031 of 1997 and the same was transferred to this Court and re-numbered as W.P.No.21796 of 2006. The writ petition was allowed by the impugned order dated 23.06.2008.

2. At the inception, the learned Special Government Pleader (Education) appearing for the appellants states that the respondent has retired from service and was paid the retiral benefits. The only issue is of payment of the benefits to him for seven months, for which he had not worked. The perusal of the impugned order shows that the respondent claims right for extended period of service in terms of G.O.Ms.No.1643 Education (U2) Department, dated 27.10.1988, which stated that while permitting the continuance of the teachers in service on re-employment terms on their attainment of the age of superannuation in the middle of the school year, the following pre-requisite conditions have been prescribed:-

- "1.The Character and the conduct of the teacher should be satisfactory.
- 2.They should be physically fit to continue in service."

3. It is the submission of the learned Special Government Pleader (Education) for the appellants that the aforesaid is found to the substantive satisfaction of the appellants, while the learned Single Judge has opined that since no disciplinary proceedings was issued, no charge memo was issued nor any adverse material put against the respondent, and the respondent could not be denied the benefit by referring to certain pronouncements.

4. The factual matrix not being in dispute, it can be hardly stated that it should be the whims and fancy of the appellants to continue or not to continue that period, when nothing had put against the respondent to show dissatisfaction with his service.

5. We are not inclined to interfere with the impugned order and the appeal is dismissed. No costs. Consequently, M.P.No.1 of 2008 is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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- 2.The Chief Educational Officer,
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Cuddalore.
- 3.The District Educational Officer,
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W.A.No.1347 of 2008

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srg 03/08/2016

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