

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2016

CORAM

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.7800 of 2010

and

WMP.No.22687 of 2016

C.Vasu

... Petitioner

Vs.

1.State of Tamil Nadu,
rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai-9.

2.Director of School Education,
Chennai-6.

3.Joint Director of School Education (Secondary),
Chennai-6.

4.Cantonment Executive Officer/Correspondent,
Cantonment Board High School,
Pallavaram, Chennai-43.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1st Respondent to regularize the break period from 13.10.1983 to 07.08.1986 as per the judgment in W.P.No.18091 of 1996 dated 17.08.2000 and confer all the consequential benefits by considering the representation dated 20.03.2009 made by the petitioner.

For Petitioner : Mr.P.Ganesan
for M/s.C.S.Associates

For Respondents: Mr.P.Sanjay Gandhi,
Additional Government Pleader.

O R D E R

The petitioner has come up with this writ petition for issuance of a writ of mandamus directing the 1st Respondent to regularize the break period of service from 13.10.1983 to 07.08.1986 as per the judgment in W.P.No.18091 of 1996 dated 17.08.2000 and confer all the consequential benefits by considering the representation dated 20.03.2009 made by the petitioner.

2.The case of the petitioner is that he joined as a Peon at the respondent office and subsequently re-designated as Office Assistant in the erstwhile Aided Management of Madras Hindu Sevak Sangh Aided High School. Thereafter, he was relieved from service and there were legal battle between the Management of the school and the petitioner and ultimately he was reinstated in service on 08.08.1986. Thereafter, he was redeployed to the 4th respondent school on 10.10.1990 and he joined on 10.10.1990 at the 4th respondent school.

3.The petitioner wanted to regularize his services from the date of issuance of Government Order in G.O.Ms.No.822, Education Department, dated 16.08.1991, which giving relaxation for those who have been appointed without resorting to the route of employment exchange for appointment. The petitioner had also made representation for total regularisation of his service period from the initial date of appointment i.e. 16.07.1979. As the Government did not pass any order, the petitioner filed the writ petition in W.P.No.18091 of 1996 seeking regularization of his service from the initial date of appointment i.e. 16.07.1979.

4.The said writ petition was heard and was finally decided by this Court by an order dated 17.08.2000, after considering the relevant merits of the case, this Court in the said order dated 17.08.2000 has passed the following orders at paragraph-7, which is reproduced hereunder:

"7.In the light of the decision of the Division Bench as well as the consequential order passed by the Government referred to above, the order issued by the Government in G.O.Ms.No.822, Education Department dated 16.08.1991 regularizing the services of the petitioner with effect from the date of issue of said order cannot be sustained. Though the writ petitioner has prayed for issuance of writ of mandamus directing the respondents to regularized the service of the petitioner from the date of appointment i.e. 16.07.1979 without seeking on order to quash the said G.O.Ms.No.822, Education Department dated 16.08.1991 as stated above, in the light of the

law laid down by the Division Bench as well as subsequently course educational order platter of the Government, in the interest of justice this Court, is justified in molding the relief as claimed by the petitioner. Accordingly, in the light of the Division Bench Decision as well as the order of the Government in G.O.Ms.No.873 dated 13.11.1995, the second respondent is directed to regularize the service of the petitioner from the date of appointment i.e. 16.07.1979 and accord all consequential benefits eligible in accordance with law and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. The writ petition is allowed to the extent mentioned above. No costs. Consequently, W.M.P.25255 of 1996 is closed."

5. Pursuant to the said order of this Court and compliance of the same, the Government passed the Government Order in G.O.Ms.No.62, School Education Department dated 18.06.2004, wherein the Government after having considered the request of the petitioner for regularization of service, though had agreed to regularise his service from 16.07.1979 had refused to accept his service from the date i.e. 13.10.1983 to 07.08.1986 as a service period for the purpose of service benefits.

6. The petitioner though has got an order in his favour from this Court in W.P.No.18091 of 1996 dated 17.08.2000 the full import of the order of this Court has not been complied and only a partial relief alone has been given to him.

7. Therefore, aggrieved by the same, the petitioner had sent representation for the full compliance of the orders of this Court on several dates in the year 2007, 2008 as well as 2009. As none of the representation of the petitioner evoke any response from the respondent, the petitioner has come out with the present writ petition.

8. Heard the learned counsel appearing for both sides.

9. It is an admitted fact that there is an order of this Court in W.P.No.18091 of 1996 dated 17.08.2000 and the learned Additional Government Pleader also has not given any contra view or factor as any further appeal had been prepared against the said order of this Court by way of Infra court Appeal. Therefore, in the eye of law, the issue reached finality by the orders of this Court dated 17.08.2000 and the same having been accepted by the respondent / Government and issued G.O.Ms.No.62 dated 18.06.2004, such order should have been issued redressing all the grievances of the petitioner as indicated at paragraph-7 of the order of this Court dated 17.08.2000.

10.This Court after seeing the order dated 18.06.2004 in G.O.Ms.No.62, School Education Department found that the respondent has refused to accept the service period of petitioner from 13.10.1983 till 07.08.1986 for any service benefits. These refusal is without any basis and is not in tune with the orders of this Court referred above. Hence, this Court is of the view that the prayer sought for in the writ petition by way of mandamus directing the first respondent to regularise the breaking service of the petitioner from 13.10.1983 to 07.08.1986 as per the judgment of this Court dated 17.08.2000 made in W.P.No.18091 of 1996 can be granted.

11.Accordingly, the writ petition is ordered with the following terms:

the first respondent is directed to pass a revised order for regularising the services of the petitioner from 13.10.1983 to 07.08.1986, with all service and attendant benefits as per the relevant service rules governing the service condition of the petitioner and such a revised order shall be passed by the first respondent as indicated above within a period of twelve weeks from the date of receipt of a copy of this order.

12.The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst. Registrar

/ true copy /

Sub Assistant Registrar

vs

To

1.The Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Secretariat, Chennai-9.

2.The Director of School Education,
Chennai-6.

3.Joint Director of School Education (Secondary),
Chennai-6.

4.Cantonment Executive Officer/Correspondent,
Cantonment Board High School,
Pallavaram, Chennai-43.

1 CC to Government Pleader SR.No 60188

1 CC to M/S.C.S. Assts Advocate SR.No.59994

W.P.No.7800 of 2010
and
WMP.No.22687 of 2016

SAI (CO)
CS 12/11/2016



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