

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2016

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No. 29480 of 2016  
and  
WMP.No.25520 of 2016

M.Dheepa

.. Petitioner

Versus

1. The Director of Elementary Education  
Chennai-600 009.
2. The District Elementary Educational Officer  
Perambalur Educational District,  
Perambalur.
3. Assistant Elementary Educational Officer,  
Alathur Block, Padalur,  
Perambalur District

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to treat the period from 03.06.2009 to 17.11.2009 as duty period and consequently to pay salary for the said period a sum of Rs.1,37,314/- and pay arrears of regular yearly increments in salary commencing from 01.01.2009 to 31.07.2016 around a sum of Rs.4,14,839/- all together Rs.5,52,153/- with interest at the rate of 12% p.a. and continue to pay regular salary along with all other attended benefits forthwith.

For Petitioner : Mr.G.Ethirajulu

For Respondent : Mr. P. Chinnadurai  
Government Advocate

ORDER

By consent, this Writ Petition is taken up and disposed of at the stage of admission itself.

2. This Writ Petition has been filed seeking for a Mandamus to direct the respondents to treat the period from 03.06.2009 to 17.11.2009 as duty period and consequently to pay arrears of regular yearly increments in salary commencing from 01.01.2009 to 31.07.2016 around a sum of Rs.4,14,839/- all together Rs.5,52,153/- with interest at the rate of 12% p.a.

and continue to pay regular salary along with all other attended benefits forthwith.

3. The case of the petitioner is that originally she was appointed as Secondary Grade Trade and posted at Panchayat Union Middle School, Zamin Athur Village, Perambalur District on 20.07.1988. Thereafter, the petitioner was promoted on 18.06.2001 as Primary School Head-Mistress and posted at Panchayat Union Primary School, Kottari, Alathur Block, Kunnam Taluk, Perambalur District. Subsequently, on 15.06.2002, she was transferred to Panchayat Union Primary School, Kottari, Alathur Block, Kunnam Taluk, Perambalur District. On 27.11.2006 she was promoted as Head Mistress of Middle School and posted at Panchayat Union Middle School, Natar Mangalam, Alathur Block, Kunnam Taluk, Perambalur District.

4. It is further stated that the second respondent herein in his proceedings dated 23.05.2009 along with a covering letter dated 25.05.2009, issued by the third respondent transferred the petitioner to Panchayat Union Middle School, Zamin Peryaur, Alathur Block, Kunnam Taluk, Perambalur District on administrative grounds during the counseling. The petitioner never made application for such transfer or attended any meeting or counseling as indicated in the aforesaid order. Therefore the order was passed without any request made by the petitioner and it is only punitive in nature. Aggrieved by the said order, the petitioner preferred a Writ Petition in W.P.No. 9833 of 2009 before this Court seeking to quash the order and sought permission to work in the existing post. The petitioner states that this Court in M.P.No.1 of 2009 in W.P.No.9833 of 2009, granted an order of stay against the transfer. The said fact was also intimated to the respondent herein through telegram. Thereafter, the petitioner joined duty at Panchayat Union Middle School, Nattarmangalam, Alathur Panchayat Union, Perambalur District on 03.06.2009 and also informed the same to the authority. But the petitioner was not allowed to continue to work in the above school or in any other school. It is further stated that this Court by an order dated 14.10.2009 in W.P.No.9833 of 2009 has allowed the writ petition. In spite of receipt of the copy of the order the then District Elementary Officer, Ariyalur has not taken any action and implemented the said order wantonly or purposely. In view of the above fact, the petitioner herein was forced to initiate contempt proceedings and thereafter on 16.11.2009 the then District Elementary Educational Officer, Perambalur at Ariyalur in his office Proceedings Na.Ka.No.1580/A2/B4/2009 permitted the petitioner to join at Panchayat Union Middle School, Nattarmangalam, Alathur Panchayat Union, Perambalur District. Consequently, the third respondent herein in his proceedings Na.Ka.No. 1431/A2/2009 dated 17.11.2009 permitted the petitioner to join in the said school. Therefore, the petitioner herein joined the aforesaid school on 18.11.2009.

5. The petitioner sent a representation dated 30.11.2009 requesting the second respondent to pass orders treating the period from 03.06.2009 to 17.11.2009 as duty period. Since there was no action the petitioner herein sent representations dated 29.01.2010, 27.09.2010, 16.12.2014, 01.09.2015 and 22.09.2015. However, the third respondent herein on the instruction of the second respondent once again transferred the petitioner on administrative ground and now petitioner is working as Headmistress, Panchayat Union Middle School, Kannapadi, Alathur Taluk, Perambalur District with effect from 25.09.2015. The further grievance of the petitioner is that the respondents have not paid salary for 5 ½ months and they have also not given any increment for the past 7 years commencing from 2009 to 2016. Therefore, the petitioner made a representation on 29.10.2015 to the second respondent followed by a reminder dated 04.12.2015. But no action was taken. The petitioner also caused a legal notice dated 16.03.2016 but till this date no action was taken to redress her grievances. Hence, the petitioner has filed this Writ Petition seeking for the aforesaid relief.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents.

7. The learned Government Advocate appearing for the respondents would submit that a direction may be given to the second respondent to consider the representation of the petitioner dated 22.09.2015 within a stipulated period.

8. Considering the submissions made by the learned counsel for the petitioner as well as learned Government Advocate, this Court, without expressing any opinion on the merits of the case, directs the second respondent to consider and pass orders on the representation of the petitioner dated 22.09.2015, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

9. This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

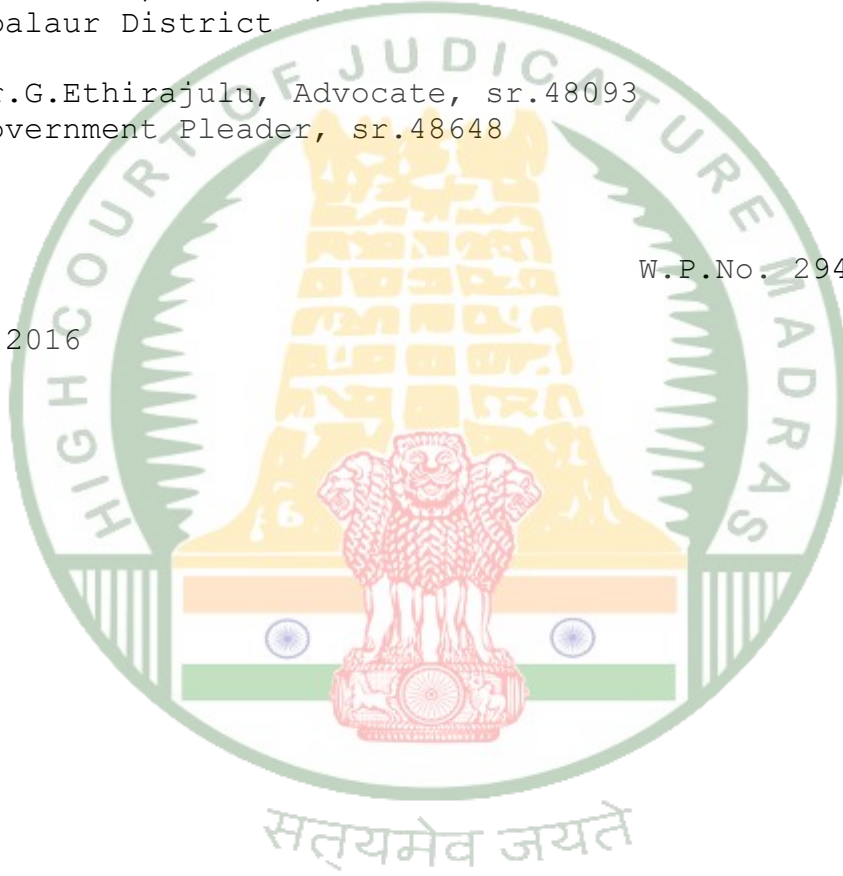
To

1. The Director of Elementary Education,  
Chennai-600 009.
2. The District Elementary Educational Officer,  
Perambalur Educational District,  
Perambalur.
3. Assistant Elementary Educational Officer,  
Alathur Block, Padalur,  
Perambalur District

1 cc to Mr.G.Ethirajulu, Advocate, sr.48093  
1 cc to Government Pleader, sr.48648

W.P.No. 29480 of 2016

lrs co  
kra 13.10.2016



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