

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.39686 of 2016

A.Abdul Razack

... Petitioner

Vs

1 The District Collector and the
President Breeks Board of Management
Udhagamandalam The Nilgiris

2 The Chief Educational Officer
and Vice President Breeks Board of
Management Udhagamandalam The Nilgiris

3 The Head Master/ Principal
Breeks All India Secondary School
Ootacamund-643 001 The Nigiris

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus directing the first respondent to consider the petitioner's representation dated 26.5.2014, 29.5.2014 and 18.11.2015 to the first respondent, second Respondent and the First Respondent respectively and give retrospective effect to regularize his services from 25.7.2004 the date on which his probationary period was over and consequently fix the petitioner's time scale of pay for the post of driver and pay the petitioner the arrears of salary from 25.07.2004 and other benefits arising out of such fixation from the date on which his probationary period was over and continue to pay the same.

For Petitioner	:	Mr.A.V.Arumugam
For Respondents	:	Mr.V.Aandhamoorthy, Addl. Govt. Pleader (Edn)

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the first respondent to consider his representations dated 26.5.2014, 29.5.2014 and 18.11.2015 and give retrospective effect to regularize his services from 25.7.2004, the date on which his probationary period was over and consequently, to fix his time scale of pay for the post of Driver and pay arrears of salary from 25.7.2004 and other benefits arising out of such fixation from the date on which his probationary period was over and continue to pay the same.

3. It is the case of the petitioner that he was appointed as Driver on consolidated pay of Rs.2,750/- vide the proceedings of the third respondent dated 30.11.2005. He was also informed that the appointment was temporary and the service would be terminated at any time without prior notice. Subsequently, by resolution No.990 dated 1.3.2008, his time scale of pay was enhanced to Rs.4,500/- and as per the letters of the first respondent, his pay was further enhanced to Rs.5,500/-. Though he is working in the third respondent school continuously from 24.7.2002, the third respondent issued appointment order only on 30.11.2005. Thereafter, the petitioner requested the first respondent to re-fix his salary, who in turn, by letter dated 19.12.2009, informed the petitioner that after receipt of clarification from the third respondent, his application would be considered. Subsequently, the third respondent sent a letter dated 17.12.2011 to the first respondent recommending for grant of regular scale of pay to the petitioner. But, the same was not considered. Thereafter, the third respondent, by proceedings dated 29.4.2013, again appointed the petitioner with grade pay and on declaration of satisfactory completion of probation, he would be regularized. Hence, the petitioner submitted an appeal dated 26.5.2014 to the first respondent stating that G.O.Ms.No.191 dated 1.2.1962 and G.O.Ms.No.29 dated 17.4.1986 are applicable to his case in respect of granting arrears. Later, the petitioner sent several representations to the first respondent seeking arrears of salary. But, the same were also not considered. Hence, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner, this Court directs the petitioner to send a fresh representation along with a copy of this order to the first respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent is directed to consider the said representation seeking regularization of his service and pass appropriate orders, on merits and in accordance with law, within a period of four weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbi

To

- 1 The District Collector and the President Breeks Board of Management Udhagamandalam The Nilgiris
- 2 The Chief Educational Officer and Vice President Breeks Board of Management Udhagamandalam The Nilgiris
- 3 The Head Master/ Principal Breeks All India Secondary School Ootacamund-643 001 The Nilgiris

+2cc to Mr.A.V. Arumugam, Advocate, S.R.No.65236

mv (CO)
md(25/11/2016)

W.P.No.39686 of 2016