



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Seventh day of October Two Thousand Sixteen

PRESENT

The Hon`ble The CHIEF JUSTICE
and

The Hon`ble Mr.Justice S.NAGAMUTHU

CMP(MD) No.5353 of 2016

IN

WA(MD) No.SR21071 of 2016

S.THIRUGNANASAMBANDAM

... PETITIONER/APPELLANT/
PETITIONER

Vs

1 STATE OF TAMILNADU
REPRESENTED BY ITS EDUCATION SECRETARY
MINISTRY OF EDUCATION, CHENNAI-09.

2 THE DIRECTOR OF SCHOOL EDUCATION,
DIRECTORATE OF SCHOOL EDUCATION,
CHENNAI-06.

3 THE CHIEF EDUCATION OFFICER
CHIEF EDUCATION OFFICE,
THALLAKULAM, MADURAI-02.

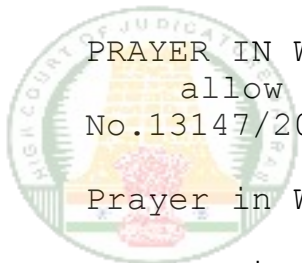
4 THE DISTRICT EDUCATION OFFICER,
DISTRICT EDUCATION OFFICER,
THALLAKULAM, MADURAI-625002.

5 THE SECRETARY
M.A.V.M.M.HR.SEC.SCHOOL,
7-10 EAST VADDAMPOKKI STREET,
YANIKAL, MADURAI-01.

6 DIRECTOR
EDUCATIONAL CONSULTANTS INDIA LTD.
(A GOVERNMENT OF INDIA ENTERPRISE),
18-A, SECTOR-16A NOIDA-201301.
PH.009-120-2515281.

... RESPONDENTS/RESPONDENTS
RESPONDENTS

Petition praying that in the circumstances stated therein
and in the affidavit filed therewith the High Court will be pleased
to condone the delay of 537 days in filing W.A. against the order of



PRAYER IN WA(MD)Sr.NO.21071 of 2016:

allow this appeal and set aside the order passed in WP(MD) No.13147/2014, dated 28th day of November,2014.

Prayer in WP(MD). 13147/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned termination of the petitioner dated 16/12/2009 issued by the M.A.V.M.M. Hr. Sec. School and CEO permission letter copy no 13255/E5/93 dated 26.05.1994 on the file of respondents 3& 5 and the quash the as illegal and consequently directing the respondents to re- instate the petitioner as a full time vocation teacher at once, and direct the respondents to consider the petitioner service would be taken from 1993 April till this date and pass any further or ther orders as this Honble Court.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of S.THIRU GNANASAMBANDAM, Advocate for the petitioner and Mr.A.K.BASKARAPANDIAN, Special Government Pleader for R1 to R4, Mr.T.R.JEYAPALAN for R5, M/s A.L.GANDHIMATHI for R6, the court made the following order:-

Reserved : on 04.10.2016

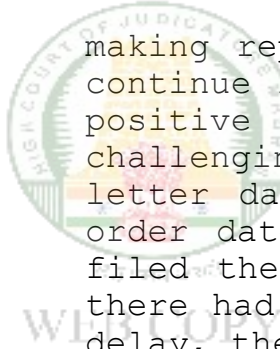
Pronounced : on 07.10.2016

(The Order of the court was made by S.NAGAMUTHU, J.)

Seeking to condone the delay of 537 days in filing Writ Appeal against the order dated 28.11.2014, made in W.P.(MD).No.13147 of 2014, the petitioner has come up with this Miscellaneous Petition.

2. The fifth respondent/M.A.V.M.M.Higher Secondary School is an aided school. The petitioner was working as a Teacher in the said school. It is alleged by the petitioner that the Government of "Botswana" selected him for contract assignment as a Teacher under them from 04.05.1993. This was intimated to him by the Educational Consultation India Limited, which is stated to be a Government of India Enterprise, by letter dated 19.03.1993. According to the petitioner, in order to take the new assignment, he applied for permission from the fifth respondent. But, no permission was granted to him to go abroad. However, the petitioner left for Botswana and joined the new assignment as Teacher in the said Country. According to him, he left the Country on 14.04.1993. Obviously, from 15.04.1993, he did not turn up for duty in the fifth respondent school. So, he was terminated from service, by order dated 27.05.1994, with effect from 15.04.1993.

3. It is stated by the petitioner that the said order of termination was not duly communicated to him. It is further stated that after knowing that he was terminated from service, he was



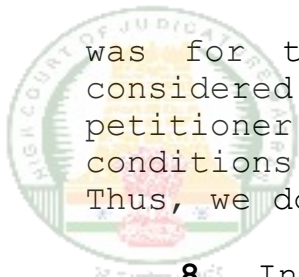
making representations to the respondents, seeking to allow him to continue in service, after he returned to India. But, there was no positive response. Finally, he filed W.P.(MD).No.13147 of 2014, challenging the said order of termination, which was confirmed by letter dated 16.03.2009. The said Writ Petition was dismissed, by order dated 28.11.2014. Challenging the said order, the petitioner filed the appeal before this Court on 18.05.2015. While doing so, there had occurred a delay of 537 days. Seeking to condone the said delay, the petitioner has come up with this Miscellaneous Petition.

4. Today, when the present Miscellaneous Petition came up for hearing, the petitioner appeared in person and made his arguments at length, even touching upon the merits of the case. In the affidavit filed in support of the Miscellaneous Petition, he has stated that he received a copy of the order of the learned Single Judge, on 15.01.2015. On account of ailment, according to him, he was hospitalized. He has further stated that the doctor advised him to take bed rest and therefore, till the end of May 2015, he was on bed rest. He has further stated that in the month of May 2015, the car, in which he was travelling, met with an accident. On account of the said accident, according to the petitioner, he suffered a lot. He was again hospitalized due to the inflammation of legs, at Vadamalayan Hospital, Madurai. He has further stated that he was on bed rest from the month of October till December 2015. For these reasons, according to him, he was not able to come up with this petition on time. The petitioner reiterated the same before this Court during his oral submissions also.

5. We have considered the above submissions.

6. From the submission made by the petitioner and from the records available, it is crystal clear that the order of termination from service was passed in the year 1994, which was challenged by the petitioner only in the year 2014, i.e., after lapse of 20 years. He has not disputed the fact that he did not take prior permission from the authorities concerned before leaving the Country to foreign Country. Thus, it is obvious that for several years, he enjoyed the fruits of new assignment in Botswana. After exhausting his employment in the said Country, he thought it fit to challenge the termination order, that too, not immediately, after several years. Though he has stated that he was hospitalized and mentally disturbed, no document of proof whatsoever has been produced to prove the same. His conduct in filing the said Writ Petition, after 20 years of the termination order was passed, would also indicate that the petitioner is not sincere in prosecuting the matter and he comes to the Court according to his whims and fancies with enormous delay. Thus, in our considered view, the delay stands not explained away to the satisfaction of the Court.

7. Since the petitioner touched upon the merits of the appeal, we deem it appropriate to deal with the same to some extent. As we have already pointed out, there is no dispute that without taking prior permission, he deserted the service, went to a foreign country, got employment and enjoyed the fruits for many years. It



was for these reasons, he was terminated from service. In our considered view, the employer was right in so terminating the petitioner from service, because in gross violation of the Service conditions and the Rules, he had deserted the job for several years. Thus, we do not find any merit in the Writ Appeal also.

8. In the result, the Miscellaneous Petition is dismissed. Consequently, W.A.(MD)(SR)No.21071 of 2016 stands rejected.

sd/-
07/10/2016

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Sub-Assistant Registrar (C.S.)

TO

1 THE EDUCATION SECRETARY,
STATE OF TAMILNADU ,
MINISTRY OF EDUCATION ,
CHENNAI-09.

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DIRECTORATE OF SCHOOL EDUCATION,
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JAM/17.10.16/SKS-RR/SAR II/4P-7C

ORDER
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IN
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Date :07/10/2016