

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE G.JAYACHANDRAN

W.A.No.804 of 2017

K.Mohammed Basheer

... Appellant

-vs-

1.The Secretary to Government,
School Education Department,
Fort St.George, Chennai-600 009.

2.The Director of Elementary Education,
College Road, Chennai-600 006.

3.The District Elementary Educational Officer,
Perambalur District, Perambalur.

4.The Assistant Elementary Educational Officer,
Perambalur, Perambalur District.

... Respondents

Prayer in Writ Appeal:

Appeal filed under Clause 15 of Letters Patent, against the order dated 06.04.2017 passed by this Court in W.P.No.8098 of 2017. Petition under Article 226 of the constitution of India, praying for the issue of the a writ of certiorarified Mandamus calling for the records relating to orders passed by the 3rd respondent in Na.Ka. No.1516/ A1/2016 dated 8.12.2016 and quash the same and direct the respondents to settle all the terminal benefits by taking note of the qualifying pensionable service rendered by the petitioner prior to 31.10.1996

For Appellant :: Mr.S.Kamadevan

For Respondents:: Mr.R.Prathapkumar,
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by
HULUVADI G.RAMESH, J.)

At the stage of admission itself, the writ appeal is taken up for final disposal.

2.This appeal has been filed against the order passed by the learned single Judge of this Court in W.P.No.8098 of 2017 dated 06.04.2017, wherein the prayer of the appellant herein to quash the order of the third respondent rejecting his request to settle the terminal benefits, and for a consequential direction to the respondents to settle all the terminal benefits, was rejected on the ground that he has kept quiet for almost 28 long years and hence this Court was not inclined to entertain the writ petition.

3.The learned counsel for the appellant has submitted that the learned single Judge has failed to see that the appellant was a permanent employee and Government servant and no orders were passed either allowing him to retire from service or served with any disciplinary proceedings culminating in punishment which could deny the terminal benefits on attaining the age of superannuation on 31.10.1996. According to the learned counsel for the appellant, even assuming that the appellant did not report for duty after 17.08.1989, nothing prevented the respondents from taking or initiating any disciplinary proceedings and inflicting appropriate punishment after following the due procedures. Stating so, the learned counsel for the appellant prayed for allowing this appeal.

4.The learned Additional Government Pleader appearing for the respondents submitted that the order passed by the learned single Judge is in accordance with law and the same does not require any interference, as the appellant has no locus standi in approaching the Court after having kept quiet for almost 28 long years.

5.Heard the learned counsel on either side and perused the materials available on record.

6.It appears that the appellant was appointed as Secondary Grade Teacher in Perambalur Panchayat Union School in the year 1958 and after getting the benefit of regularisation, had applied for leave on loss of pay from 01.05.1982 to 27.06.1985 for a period of three years and the same was said to have been accepted by the fourth respondent. The appellant rejoined duty on 28.06.1985 and worked till 16.08.1985 and he again applied for leave on loss of pay for four years from 17.08.1985 to 16.08.1989 and the same was also accepted. Only thereafter, he was not permitted to rejoin duty. Thereafter, he submitted his request for voluntary retirement, but no order was passed either accepting or rejecting the same. The grievance of the appellant is that when there was no disciplinary proceedings pending for his unauthorised absence and when no order was passed on his request for voluntary retirement, on attaining the age of superannuation on 31.10.1996, the respondents cannot withhold his service benefits.

7.The learned single Judge, dismissed the writ petition on the ground that no document was produced before this Court to substantiate that he has made any request for voluntary retirement or he has made any application for releasing his retiral benefits. Hence, the appellant, being guilty of laches, is not entitled to seek any remedy.

8.As rightly held by the learned single Judge, the appellant had not produced any document to show that he has made any request for voluntary retirement or he has made any application for releasing his retiral benefits. Further, having slept over for a period of 28 long years, it is not proper on the part of the appellant to seek the remedy, as prayed for. Thus, there is no merit in this appeal and accordingly the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

KM

To

- 1.The Secretary to Government,
School Education Department,
Fort St.George, Chennai-600 009.
- 2.The Director of Elementary Education,
College Road, Chennai-600 006.
- 3.The District Elementary Educational Officer,
Perambalur District, Perambalur.
- 4.The Assistant Elementary Educational Officer,
Perambalur, Perambalur District.

+ 1 cc to M/s. S. Kamadevan, Advocate SR.52305
+ 1 cc to the Government Pleader Sr.52720

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MV(CO)
EU 14.09.17