

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2017

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P.Nos.7084 and 18639 of 2003

Vasanth Raja

.. Petitioner in both W.Ps

Vs.

1. The Director of Matriculation Schools
6, College Road, Chennai
 2. The Inspector of Matriculation Schools
Madurai 625 002
 3. Bishop
Bishop's office
C.S.I.Madura - Ramnad Diocese
162, East Veli Street,
Madurai 625 001
 4. M/s.Noyes Matriculation
Higher Secondary School
Rep.by the Correspondent
Tallakulam, Madurai 625 002
 5. Sornam Franklin .. Respondents in W.P.No.7084/2003
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6, College Road, Chennai
 2. The Inspector of Matriculation Schools
Madurai 625 002
 3. Bishop
Bishop's office
C.S.I.Madura - Ramnad Diocese
162, East Veli Street,
Madurai 625 001
 4. M/s.Noyes Matriculation Higher Secondary School
Rep.by the Correspondent
Tallakulam, Madurai 625 002 .. Respondents in
W.P.No.18639/2003

Prayer in W.P.No.7084/2003: Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of Certiorari calling for the records relating to the proceeding of the 3rd respondent, viz., Bishop, Bishop's office, C.S.I.Madura-Ramand Diocese, 162, Eastveli St., Madurai 625 001, made in proceeding Nil dated 24.7.2002 lowering the age of retirement from 60 years to 58 years and quash the same.

Prayer in W.P.No.18639 2003: Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the proceeding of the 4th respondent viz. Noyes Matriculation Hr.Sec.School, Tallakullam, Madurai 625 002 made in proceeding Nil dated 23.4.2003 in which relieving the petitioner from service and quash the same on the basis of the Code of Regulation for Matriculation Schools, Tamil Nadu and consequently direct the respondents 3 and 4 to disburse the salary to the petitioner Government scale of pay as per the Code of Regulation for Matriculation School, Tamilnadu.

For Petitioner ..Mr.K.Chakrapani

For Respondents..Mr.V.Jayaprakash Narayanan

Special Government Pleader

for R1 & R2

Mr.Adrian D.Rozario for R3 & R4

COMMON ORDER

The petitioner was working as a Teacher in Noyes Matriculation Higher Secondary School, Tallakulam, Madurai run by the Church of South India and is admittedly a minority Institution. The age of retirement of the Teachers was earlier fixed at 60 and by the impugned Resolution dated 24.7.2002, CSI reduced the age of retirement from 60 to 58. Accordingly, the petitioner, who attained the age of 58 on 23.4.2003, was superannuated. Therefore, the petitioner has filed two writ petitions, namely W.P.No.7084 of 2003, challenging the very Resolution passed by CSI, and W.P.No.18639 of 2003, challenging her superannuation on 23.4.2003.

2. Heard Mr.K.Chakrapani, learned counsel for the petitioner, Mr.V.Jayaprakash Narayanan, learned Special Government Pleader for respondents 1 and 2 and Mr.Adrian D.Rozario, learned counsel for the respondents 3 & 4.

3. Mr.Chakrapani, learned counsel for the petitioner, placed strong reliance on a Division Bench of this Court in the Special Officer, Salem Cooperative Sugar Mills Matriculation

Higher Secondary School, Mohanur, Namakkal District vs. All Teachers Front, rep.by its General Secretary N.Umathan, Coimbatore and others, 2008 WLR 676, wherein the Division Bench had held that the Teachers working in un Aided Private Matriculation School should also be paid salary on par with Government Teachers working in Government Schools in accordance with the mandates of the Education Code. It appears that the matter was taken to the Supreme Court and the same was also dismissed in limine. Therefore, Mr.Chakrapani contended that applying the ratio in the said judgment, the retirement age of the Teachers fixed in Clause 18 of the Code of Regulation is 60 and therefore, that should be applied to the instant case and the writ petitions should be allowed.

4. Per contra, Mr.V.Jayaprakash Narayanan, learned Special Government Pleader and Mr.Adrian D.Rozario, learned counsel appearing for the respondents 3 and 4, placed strong reliance on the subsequent Division Bench judgment of this Court in The Correspondent, Rev.Fr.John Alexander, Don Bosco Matriculation Higher Secondary School vs. J.Lourduraj, 2014 (2) CWC 649, and the Full Bench Judgment of this Court in The Correspondent/Principal, Arokiamada Matriculation Higher Secondary School, Udumalai Road, Pollachi vs. T.Sorubarani (deceased) and others., 2015 (6) CTC 129.

5. This Court gave its anxious consideration to the rival submissions.

6. As regards the Special Officer, Salem Cooperative Sugar Mills case (supra) is concerned, the issue was relating to payment of salary to Matriculation School Teachers on par with Government School Teachers. However, in Lourduraj case, (supra), the issue was whether reduction of age of retirement from 60 to 58 by the minority Institution was correct. In paragraph 18 of the judgment in Lourduraj case, the Division Bench held as follows:

"18. For the reasons stated herein above, the decision of the appellant School Management to reduce the age of superannuation of its staff members from 60 years to 58 years cannot be faulted with. As such, the common order passed by the Single Judge in the writ petitions stands set aside."

7. This Court is bound by the Division Bench judgment in Lourduraj case, which is on the point. That apart, in Sorubarani's case (supra), the Full Bench has clearly held that the Code of Regulations for Matriculation Schools is only a Code and does not have statutory effect and therefore, the same

cannot be enforced in a court of law. In view of the judgments of the Division Bench in Lourduraj's case and the Full Bench in Sorubarani's case, the prayer of the petitioner cannot be acceded to.

8. In the result, the Writ Petitions are dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ajr

To

1. The Director of Matriculation Schools
6, College Road, Chennai
2. The Inspector of Matriculation Schools
Madurai 625 002

+1cc to Mr.K. Chekarapani, Advocate, S.R.No.12924
+1cc to Mr.Adrian D. Rozario, Advocate, S.R.No.12367
+1cc to the Government Pleader, S.R.No.13158

AD(CO)
EU 21.3.17

W.P.Nos.7084 and 18639 of 2003

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