

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.09.2017
CORAM:
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
W.P.No.30007 of 2011

R.Subramanian

.. Petitioner

Vs.

1. The District Elementary Educational Officer,
Salem District, Cherry Road,
Salem - 636 007.

2. The Additional Assistant Elementary,
Educational Officer, Nangavalli,
Salem District - 636 454.

3. The Secretary,
Sri Lakshmi Devi Padasalai,
Jalakantapuram - 636 501.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Mandamus to direct the respondents to regularize the service of the petitioner as Secondary Grade Headmaster from 1.6.1995 to 30.9.2008, fix his pay in the scale of pay applicable to Secondary Grade Headmasters, grant Selection Grade/Special Grade in the said post and re-fix and revise the retirement and pensionary benefits on that basis and to disburse consequential monetary benefits with interest at 18% per annum.

For Petitioner : Mr.M.Ravi

For Respondents: Mrs.M.E.Raniselvam
Addl. Government Pleader
for respondents 1 and 2

ORDER

The petitioner has filed this writ petition seeking issuance of a writ of Mandamus to direct the respondents to regularize the service of the petitioner as Secondary Grade Headmaster from 1.6.1995 to 30.9.2008, fix his pay in the scale of pay applicable to Secondary Grade Headmasters, grant Selection Grade/Special Grade in the said post and re-fix and revise the retirement and pensionary benefits on that basis and to disburse consequential monetary benefits with interest at 18% per annum.

2. The facts in a nutshell are as under: The petitioner was initially appointed as Secondary Grade Teacher in the third respondent private school and was thereafter promoted as Headmaster from 1.6.1995 vide proceedings dated 22.5.1995 of the third respondent, in which post the petitioner continued in service till superannuation on 30.9.2008. Thereafter, the petitioner was granted re-employment in the said post till the end of the academic year 2008-2009, i.e., 31.5.2009.

3. It is the case of the petitioner that even though he was promoted as Headmaster vide proceedings dated 22.5.1995 of the third respondent in the substantive regular vacancy caused due to the retirement of one Jamuna Bai, Headmaster on 31.5.1995, the services of the petitioner were not regularized and pay has not been fixed in the said post, so also the pensionary benefits.

4. It is stated that the management of the third respondent school sent necessary proposals to the respondent authorities for approval of promotion of the petitioner, but no order was passed by the respondent authorities. The representation sent by the petitioner directly to the second respondent was returned directing him to approach the authorities through proper channel.

5. It is stated that petitioner appealed to the first respondent to redress his grievance and the first respondent vide proceedings dated 8.10.2010 directed respondents 2 and 3 to take suitable action on the representation dated 16.9.2010 of the petitioner. It is stated that despite such direction and further representation of the petitioner dated 7.2.2011, the claim of the petitioner has not been considered till date.

6. In this backdrop, the present writ petition is filed for the relief stated supra.

7. It is the contention of the learned counsel appearing on behalf of the petitioner that the petitioner was promoted as Headmaster by proceedings of the third respondent dated 22.5.1995 in the regular retirement vacancy and, therefore, he is entitled to all pay and allowances in the promoted post for the period from 1.6.1995 to 30.6.2008.

8. It is further contended that as per the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act and the Rules framed thereunder, when the management of the school submits a proposal to the educational authorities for approval, the authorities are bound to pass appropriate orders within a reasonable period, but in the case on hand, the respondent authorities have not passed any order for reasons best known to them.

9. Per contra, the learned Additional Government Pleader appearing on behalf of the respondent authorities submitted that inasmuch as there were seniors to the petitioner for consideration to promotion to the post of Headmaster and they had objected to the promotion of the petitioner, more so when there was prior approval obtained by the third respondent school from the respondent authorities for promoting the petitioner, the approval as sought by the third respondent school was not granted to the petitioner.

10. I heard Mr.M.Ravi, learned counsel for the petitioner and Mrs.M.E.Rani Selvam, learned Additional Government Pleader for the respondents 1 and 2 and perused the documents available on record.

11. The fact that the petitioner was appointed Higher Grade Teacher during 1972 in the third respondent school and was subsequently promoted as Secondary Grade Teacher during 1974 and was subsequently promoted as Headmaster on the retirement of one Jamuna Bai in the regular vacancy is not disputed by the respondent authorities. That apart, it is a matter of record that the petitioner had served in the post of Headmaster of the third respondent school from 1.6.1995 to 30.9.2008.

12. It is not the case of the respondent authorities that the petitioner was not qualified or disqualified to hold the post of Headmaster of the third respondent school. There is not a whisper about the eligibility or qualification of the writ petitioner. All that has been stated by the respondent authorities is that there were seniors to the petitioner in the third respondent school and it was upon consideration of their complaint that the case of the petitioner was not considered and no approval was granted. It is not as if the third respondent management is not empowered to consider promotion of the petitioner as Headmaster on merits even when there are seniors to the petitioner as alleged by the respondent authorities.

13. It is seen from the records that the petitioner was promoted as Headmaster of the third respondent school by proceedings of the third respondent dated 22.5.1995 in the regular vacancy. It is also a matter of record that the management of the third respondent school sent proposal to the District Elementary Educational Officer, Salem, through the Assistant Elementary Educational Officer, Nangavalli, for approval of the promotion of the petitioner as Headmaster.

14. It is seen that when the petitioner had sent series of representations, the first respondent vide proceedings dated 8.10.2010 directed respondents 2 and 3 to take suitable action on the representation dated 16.9.2010 of the petitioner. However, it is unfortunate that till date the said representation has not been considered. It is further to be noted that the proposal sent by the third respondent school has also till date not been considered by the respondent authorities. This attitude of the respondent authorities shows their lethargy and reeks of mala fide. When a representation has been sent by the petitioner or for that matter when a proposal is forwarded by the third respondent, it is incumbent upon the respondent authorities to pass orders one way or the other. Nothing has been placed on record by the respondent authorities to show that they have conducted any enquiry qua the validity of the promotion granted to the petitioner.

15. For the foregoing reasons, the writ petition is allowed as prayed for and the respondent authorities are directed to regularize the service of the petitioner as Secondary Grade Headmaster from 1.6.1995 to 30.9.2008, fix his pay in the scale of pay applicable to Secondary Grade Headmasters, grant Selection Grade/Special Grade in the said post and re-fix and revise the retirement and pensionary benefits on that basis and to disburse consequential monetary benefits. Such exercise shall be undertaken by the respondent authorities within three months from the date of receipt of a copy of this order. No costs.

vs

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1. The District Elementary Educational Officer,
Salem District, Cherry Road,
Salem - 636 007.

2. The Additional Assistant Elementary,
Educational Officer, Nangavalli,
Salem District - 636 454.

+1cc to Mr.M.Ravi, Advocate SR.NO.68564

+1cc to Government Pleader SR.NO.68861

sm:11.10.2018

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