

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.10.2017

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.18521 of 2014

K.Sivathanu Pillai

[PETITIONER]

Vs

- 1 The Government of Tamil Nadu
rep. By its Secretary
Department of School Education
Fort St.George, Chennai 9.
- 2 The Director of School Education
College Road
Chennai 600 006.
- 3 The Chief Educational Officer
Nagercoil, Kanyakumar District
- 4 The District Educational Officer
Nagercoil, Kanyakumar District.
- 5 The Secretary
D.V.D.Hr.Sec.School
Kottur, Nagercoil-2.

[RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus, to direct the respondents 1 to 3 herein to consider the claim of the petitioner to count the service with salary from 1991-1992, for the purpose of pension and other benefits.

For Petitioner : Mrs.P.Mahalakshmi

For Respondents : Mr.A.Raja Perumal -R1 to R4
Additional Govt. Pleader

ORDER

The relief sought for in this Writ Petition is to direct the respondents 1 to 3 to consider the claim of the petitioner to count the service with salary from 1991-1992, for the purpose of pension and other benefits.

2.The learned counsel appearing for the writ petitioner submitted that the writ petitioner was appointed as B.T.Assistant in the fifth respondent School in the year 1991 and retired from service on attaining the age of superannuation. The learned counsel made a submission that the approval of the writ petitioner's appointment was granted only from the date of passing of the order i.e. on 05.11.2001, which is irregular and the approval has to be granted from the date of her initial appointment.

3.The fact remains that the order of approval has not been challenged by the writ petitioner during the relevant point of time.

Thus, the order of approval has become final. This Court is of the view that the aggrieved person from and out of any order has to challenge the same in order to redress the grievances within a reasonable time. In the case on hand, the order of approval was issued in proceedings dated 05.11.2001. The order itself states that the post of B.T. Assistant arising during the academic year 1996-97 is to be filled up by the fifth respondent Management. Accordingly, it is not made clear that during the year 1991, whether the post of B.T.Assistant was vacant or not. In the absence of any of those particulars, this Court cannot consider the claim of the writ petitioner for approval with retrospective effect from 01.02.1991.

4.In the absence of all those particulars, the representation in this regard submitted by the writ petitioner also cannot be directed to be considered and the post if it was vacant, the Management has to fill up in accordance with the Rules and all those aspects were not brought to the knowledge of this Court at the time of admission of the writ petitioner. However, the fact remains that the appointment of the writ petitioner was approved in proceedings dated 05.11.2001, the same was not challenged and therefore, it is presumed that the writ petitioner has accepted the same and served as B.T.Assistant and

retired from service. In the absence of establishing any legal right, no representation in this regard can be entertained by this Court by exercising the power under Article 226 of the Constitution of India.

5. In this view of the matter, no further adjudication is required in this Writ Petition. Accordingly, the Writ Petition stands dismissed. No costs.

10.10.2017

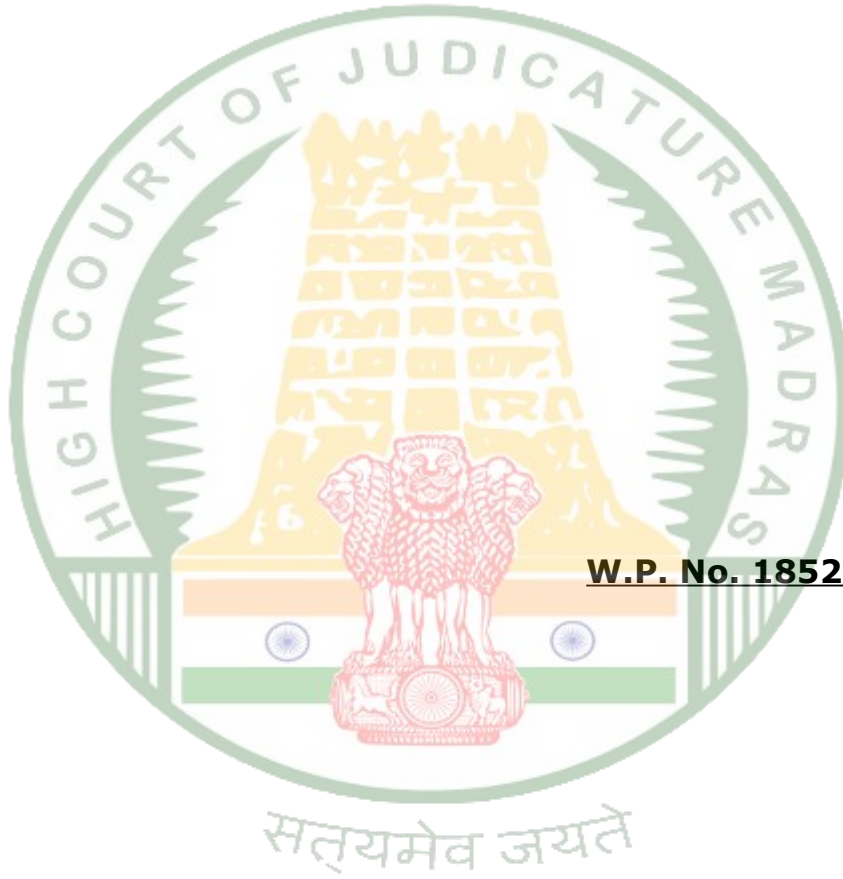
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To

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S.M.SUBRAMANIAM,J.

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