

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.38517 of 2016

M.Vincent Devasirvatham

.. Petitioner

Vs

- 1.State of Tamil Nadu,
Rep. By its Secretary,
Education Department,
Chennai - 9.
 - 2.The Director of Elementary Education,
College Road,
Chennai - 6.
 - 3.The Accounts Officer,
O/o.The Accountant General,
Teynampet, Chennai.
 - 4.The District Elementary Education Officer,
Villupuram, Villupuram District.
 - 5.The Assistant Elementary Educational Officer,
Villupuram, Villupuram District.
 - 6.The Correspondent,
TELC Middle School,
Villupuram.
- .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the entire records connected with the impugned order passed by the fifth respondent vide A.Thi.Mu.No.121/Aa/2013, dated 13.03.2013 and consequential order passed by the third respondent vide Pen.24/I/12407636/Misc/NAR/386, dated 12.09.2013, and quash the same and direct the respondents 1 to 5 to grant pension and retirement benefits to the petitioner for the service rendered by the petitioner as a Secondary Grade Assistant from 08.06.1971 to 23.09.1971, 23.11.1971 to 16.12.1971, 18.01.1972 to 08.02.1972, 16.08.1972 to 23.06.1975, 24.06.1975 to 12.01.1977, 12.01.1977 to 14.06.1978, 18.08.1983 to 21.01.1984 and 26.04.1984 to 09.06.1988, for total qualifying service of 10 years and 9 months and 20 days in the various schools.

For petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.V.Anandamoorthy, AGP

O R D E R

By way of filing this writ petition, the petitioner seeks to quash the impugned proceedings dated 13.03.2013 and 12.09.2013 of the fifth and third respondents respectively, in and by which, they rejected the claim of the petitioner seeking to grant pension on the ground of his resignation from the post of Secondary Grade Teacher on 09.06.1988.

2. It is stated by the learned counsel for the petitioner that the petitioner worked in the leave vacancy at YMCC Middle School, Madurai from 18.01.1972 to 08.07.1972 and thereafter, he served at various schools as stated below;

from 16.08.1972 to 23.06.1975, at KaKarambakudi TELC Middle School;

from 24.06.1975 to 12.01.1977 at UC Elementary School, Ammapettai;

from 12.01.1977 to 14.06.1978 at TELC Primary School, M.Kallupatti;

from 18.08.1983 to 21.01.1984 at TELC Primary School, Ulthukuppai; and

finally, he was appointed as Secondary Grade Assistant at TELC Middle School, Villupuram with effect from 26.04.1984 and the said appointment was also duly approved by the education authority. However, due to his family circumstances and health condition, he resigned from the said post on 09.06.1988 and he was also relieved on the same day. Thereafter, he pleaded, on coming to know that one Mr.R.Sundaram Iyer, who had also resigned from the service in the year 1965, was sanctioned with pension, he made a representation dated 20.02.2013, requesting the sixth respondent to grant pension and thereafter, the said pension proposal was also forwarded to the fifth respondent, who, in turn, by the impugned order dated 13.03.2013, rejected his request stating that he is not eligible for pension in view of his resignation from the service.

3. It is further submitted that the petitioner is eligible for pension as he had admittedly worked for more than 10 years 9 months and 20 days in the respondent School. However, without taking note of such a long unblemished services rendered by him, he pleaded, the respondents 3 and 5 have wrongly denied to grant pension to him ignoring their statutory rights. Thus, on this basis, he prayed for interference of the impugned proceedings dated 13.03.2013 and 12.09.2013 passed by the respondents 3 and 5.

4. This Court is unable to agree with the above said submission, for, although he resigned from the post of Secondary Grade Assistant on 09.06.1988, he has made a representation only on 20.02.2013, with a delay of 25 years. I do not know what precluded the petitioner to make a representation till such time and he did not give sufficient reasons for such delay in the affidavit filed in support of the writ petition.

5. It is well settled law that the delay defeats justice and equities and the equitable doctrine has its fullest application in the matter of grant of relief under Article 226 of the Constitution. The discretionary relief can be had, provided one has not by his act or conduct given a go-by to his rights. Equity favours a vigilant rather than an indolent litigant and this being the basic tenet of law, the question of entertaining the prayer of the petitioner, who, as highlighted above, has made a representation only on 20.02.2013 with a delay of 25 years though he had resigned from the service on 09.06.1988, does not and cannot arise in this matter.

6. In such view of the matter, the writ petition fails and the same is dismissed on the ground of laches. No Costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

- 1.The Secretary,
Education Department,
Chennai - 9.
- 2.The Director of Elementary Education,
College Road,
Chennai - 6.
- 3.The Accounts Officer,
O/o.The Accountant General,
Teynampet, Chennai.
- 4.The District Elementary Education Officer,
Villupuram, Villupuram District.
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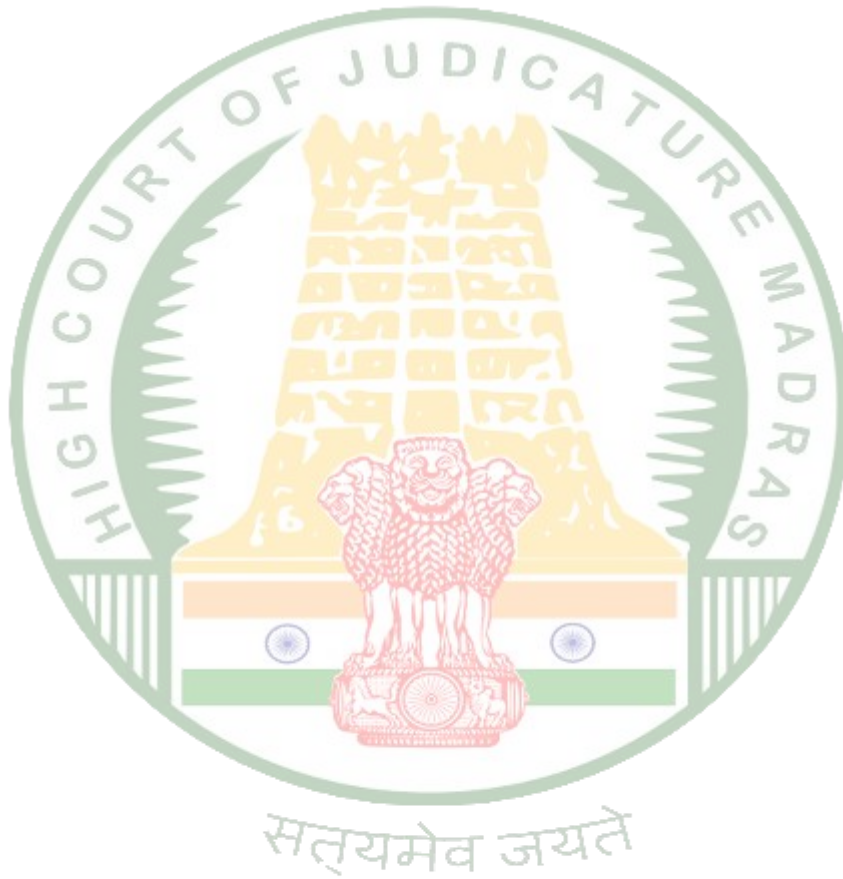
6.The Correspondent,
TELC Middle School,
Villupuram.

+1 cc to mr.S.N.Ravichandran,advocate,sr.14457

+1 cc to Govt.Pleader,sr.14725.

vgi(co)
krd 7/4

W.P.No.38517 of 2016



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