

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2017

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.43161 of 2002
and
W.P.M.P.No.11 of 2013

1.N.Palanisamy, (deceased)

2.Mrs.Nachammal

3.Mr.P.Vetrivel

4.Mrs.Vijayalakshmi

(Petitioners 2 to 4
impleaded as L.Rs of the
deceased petitioner as per the
order of the Court dated
09.07.2008 in W.P.M.P.
No.17529 of 2006 in
W.P.No.43161 of
2002.)

.... Petitioners

vs.

1.State of Tamil Nadu,
Rep. By the Secretary to Government,
Education Department,
Secretariat, Chennai - 9.

2.The Director of Elementary
School Education,
College Road, Chennai - 6.

3.The District Elementary
Educational Officer,
Erode.

4.The Assistant Educational
Officer,
Gobichettipalayam.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus to call for the records on the file of the 1st respondent in connection with the order passed by him in his letter No.29079/Pil/2002-1, dated 16.09.2002, quash the same and direct the respondents to pay all the retirement benefits.

ForPetitioners : Mr.R.Singaravelan, S.C
for Mr.V.S.Jagadeesan

For Respondent : Mr.A.Raja Perumal, A.G.P.

O R D E R

This writ petition has been filed against the order dated 16.09.2002 passed by the first respondent by his letter No.29079/Pil/2002-1 and to direct the respondents to pay all the retirement benefits to the petitioner.

2. The brief facts of the case are as follows:

2.1.The petitioner was appointed to the post of Peon on 30.06.1949 and he retired from service on 30.04.1995. While hewas in service, inspite of repeated requests, his pay was not fixed in accordance with the pay commission and none of the retirement benefits has been given to him. Hence, the petitioner sent several representations to the respondents and also the Hon'ble Chief Minister of Tamil Nadu. In the mean time, the fourth respondent sent a reply to the petitioner stating that as the petitioner was employed in a private school without prior approval of the authorities concerned, no pensionary benefits could be given to him. Thereafter, the Director of School Education had forwarded a letter to the second respondent to take steps about the grievances of the petitioner. But, no reply has been received by the petitioner. Hence, the petitioner is constrained to file the present writ petition.

3.When the matter is taken up for hearing, Mr.R.Singaravelan, learned Senior Counsel appearing for the petitioner submitted that the impugned order passed by the first respondent is unsustainable in law and against the Government Orders and the rules and regulations governing the private schools and aided school.

4.In support of his submissions, the learned Senior Counsel relied on the order dated 17.03.2016 passed by the learned Single Judge of this Court in a batch of writ petitions in W.P.Nos.29998 and 29999 2014 etc.,.

wherein paragraph No.5 reads as follows:

"Thus, the issue is well settled now that any school, either minority/private/aided or unaided, is entitled to fill up the vacancy arising on account of promotion, retirement, removal, dismissal

etc., against a sanctioned post already approved by the school authorities, without even obtaining prior permission from the Government. In the cases on hand, admittedly, the writ petitioners have been appointed against vacancies relating to sanctioned posts as Non-teaching staff in various cadres and therefore, by following the above cited case laws, this Court hereby directs the respective respondents to approve the appointments of the Non-teaching staff by the Private Aides Schools and to sanction the grant within a period of four weeks from the date of receipt of a copy of this order."

Hence, he requested this Court to allow the writ petition by setting aside the impugned order passed by the first respondent.

5. Heard Mr.R.Singaravelan, learned Senior counsel appearing for the petitioner and Mr.A.Raja Perumal, learned Additional Government Pleader appearing for the respondents.

6. Considering the submission made by the learned Senior Counsel for the petitioner and also considering the claim made by the petitioner, who was working as Peon in Diamond Jubilee Elementary School from 30.06.1949 to 30.04.1995 i.e. more than 46 years, who has not been paid any service benefits and in view of the order dated 17.03.2016 passed in a batch of writ petitions in W.P.No.29998 and 29999 of 2014 etc., this Court is of the view that the impugned order dated 16.09.2012 passed by the respondent, is totally wrong and the same is unsustainable. Hence, the impugned order is set aside. The first respondent is directed to pay all service benefits to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order.

The writ petition is disposed of in the above terms. There shall be no order as to costs. Consequently, connected W.P.M.P. is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

cla

To:

1.State of Tamil Nadu,
Rep. By the
Secretary to Government,
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2.The Director of Elementary
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3.The District Elementary
Educational Officer,
Erode.

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Officer,
Gobichettipalayam.

+ 1 cc to Mr.V.S. Jagadeesan, Advocate SR.54088
+ 1 cc to Government Pleader SR.53983

W.P.No.43161 of 2002

GJ(CO)
EU(25/09/2017)



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