



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.07.2017

CORAM :

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.(MD)No.281 of 2017
and
C.M.P(MD).No.3037 of 2017

P.M.Jainullabdeen

... Appellant/Petitioner

vs.

1.The State of Tamil Nadu,
Rep. By its Secretary to Government,
School Education Department,
Secretariat, Fort. St. George,
Chennai - 600 009.

2.The Director of School Education,
Dpi Campus, College Road,
Chennai - 600 006.

3.The District Educational Officer,
Kumbakonam,
Thanjavur District.

4.The Correspondent,
Shaukathul Islam B.M.S.Higher Secondary School.

5.The Principal Accountant General (A&E),
Tamil Nadu,
361, Anna Salai,
Chennai-600 018.

... Respondents/Respondents

Prayer : Writ Appeal is filed under Clause 15 of Letters Patent to set aside the order passed by this Court in W.P(MD).No.15941 of 2016 dated 26 August 2016.

Prayer in WP(MD). 15941/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the 5th respondent in Letter No.P24/4/12413665/ADK dated 20.06.2016 and to quash the same and consequently direct the respondent to settle retirement benefits to the petitioner including regular pension in the post of Secondary



Grade Teacher in the 4th Respondent School as on the date of retirement on 30.06.2006 by taking into consideration of services rendered by the petitioner in Panchayat Union Service from 06.12.1968 and 31.01.1984 with all consequential and other attendant benefits.

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For Appellant : Mr.Thiraviyam for Mr.G.Sankaran
For Respondents : Mr.T.S.Md.Mohideen, AGP
for R1 to R4
Mr.P.Gunasekaran for R5.

J U D G M E N T

(Judgment of the Court was made by G.R.SWAMINATHAN, J.)

The unsuccessful writ petitioner is on appeal questioning the order dated 26 August 2016 made in W.P(MD).No.15941 of 2016.

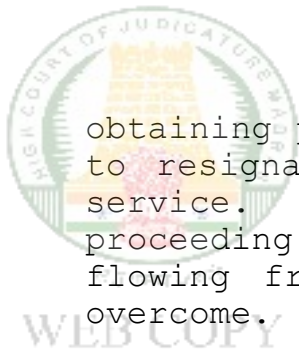
2.The writ petitioner contended that he was initially appointed as higher grade teacher on 06 December 1968 in Panchayat Union Middle School, Pasupathi Koil, Papanasam Union, Thanjavur District. He was subsequently upgraded as secondary grade teacher with effect from 01 January 1971. Due to family reasons, he took voluntary retirement from the service and he was relieved with effect from 31January 1984.

3.Thereafter, he joined the fourth respondent school which is a Government aided minority school as second grade teacher and he worked there for about 14 years. He reached the age of superannuation on 30 June 2006. Thereafter, the issue arose whether the petitioner was entitled to pension and whether the period rendered by him in the Panchayat Union Middle School from 1968 to 1989 could be taken into account. The fifth respondent herein passed the impugned proceedings dated 20 June 2016 returning the proposal stating that the writ petitioner had actually resigned in the year 1984 and therefore that would entail forfeiture of past service and therefore pensionary benefits were not admissible. Aggrieved by the same, the appellant herein filed W.P.(MD).No.15941 of 2016. The learned Judge did not find any merit in the writ petition and dismissed the same by order dated 26 August 2016. Aggrieved by the same, this intra Court appeal has been filed.

4.Heard the learned counsel for the appellant as well as the respondents.

5.The learned counsel for the appellant reiterated the contentions raised in the grounds of appeal.

6.We went through the materials on record. It is not in dispute that the writ petitioner when working as secondary grade teacher in Panchayat Union Middle School, Pasupathi Koil, Papanasam Union, Thanjavur District went on voluntary retirement with effect from 31 January 1984. It is also not in dispute that as per the statutory position that prevailed then, voluntary retirement without



obtaining prior approval with the Government authority would amount to resignation. The effect of resignation is forfeiture of past service. Merely because, the fourth respondent issued some proceeding in favour of the writ petitioner, the legal consequences flowing from the act of resignation in the year 1984 cannot be overcome.

7.The learned Judge placed reliance on an earlier unreported decision of this Court in W.P(MD).No.618 of 2012. He also had extracted the relevant portion of the said decision. We concur with the reasoning of the learned single Judge. We find no merit in this writ appeal.

Accordingly, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
School Education Department,
Secretariat, Fort. St. George,
Chennai - 600 009.
- 2.The Director of School Education,
Dpi Campus, College Road, Chennai - 600 006.
- 3.The District Educational Officer,
Kumbakonam,
Thanjavur District.

+1cc to Mr.P.GUNASEKARAN Advocate in SR. No.65705
+1cc to Mr.G.SANKARAN Advocate in SR. No.66113
+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.65897
SKM/ARUL
JS/MR.KKR/SAR.2/3.8.2017/3P-7C

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