



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.[MD].No.684 of 2017
and
C.M.P(MD).No.5366 of 2017

- 1.The State of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Fort.St.George, Chennai.
- 2.The Director,
School Education Department,
Chennai.
- 3.The District Educational Officer,
Cheranmadevi Educational Officer,
Tirunelveli.

: Appellants

Vs.

- 1.Chavadi P.Chidambaram
- 2.The Secretary,
Sri Paramakalyani Higher Secondary School,
Alwarkurichi, Tirunelveli District.

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 23.01.2017 made in W.P.(MD).No.14416 of 2013, on the file of this Court.

Prayer in WP(MD). 14416/ 2013 :

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus, directing the Respondents to alter the retirement date of the petitioner from 04.04.2010 to 31.05.2012 and to disburse the salary increments, pension, provident funds and other consequential service benefits with 12 % interest within the time stipulated by this Court.



For Appellants

: Mr.VR.Shanmuganathan
Special Government Pleader

For Respondent

No.1 : Mr.T.Lajapathi Roy

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JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the appellants and Mr.T.Lajapathi Roy, learned counsel appearing for the first respondent.

2. This Writ Appeal is directed against the order dated 23.01.2017 made in W.P.(MD).No.14416 of 2013.

3. The said Writ Petition was filed by the first respondent herein praying for the issuance of a Writ of Mandamus directing the respondents therein to alter his retirement date, from 04.04.2010 to 31.05.2012 and to disburse the salary increments, pension, provident fund and other consequential service benefits with 12% interest within a time frame.

4. The undisputed facts are that the first respondent joined the service of the fourth respondent school therein as BT Assistant and his date of birth was entered in the Service Register as "06.10.1953". Subsequently, he filed an application for alteration of his date birth as "04.04.1952" and such application is stated to have been filed within five years from the date on which the first respondent/writ petitioner entered in service. While so, the first respondent/writ petitioner filed a suit in O.S.No.433 of 1985, on the file of the District Munsif Court, Ambasamudram, for declaration of his correct date of birth. The said suit was decreed, by Judgment dated 30.08.1989. As against the same, the appellants herein filed an appeal in A.S.No.39 of 1999, on the file of the Sub Court, Ambasamudram, which was dismissed, by Judgment dated 19.06.2002. Thus, the first respondent/writ petitioner insisted that his date of birth should be corrected and consequently, his date of retirement.

5. Since no action was initiated, the first respondent/writ petitioner filed W.P.(MD).No.5546 of 2010 to consider his representation by altering his date of birth in the Service Register, based on the decree obtained from the Civil Court. It is pertinent to mention, at this juncture, that the said Writ Petition was filed by the first respondent/writ petitioner at the verge of his retirement, as he was scheduled to retire from service on 30.04.2010. The said Writ Petition came to be disposed of, by order dated 22.04.2010, directing the respondents therein to



consider the representation based on the decree passed by the Civil Court and pass appropriate orders within a time frame.

6. In pursuance of the above, the appellants complied with the direction issued by the Writ Court and issued G.O.(2D).No.37, School Education (D2), Department, dated 03.10.2012, correcting the date of birth of the first respondent/writ petitioner as "06.10.1953" and necessary entries were also made in the Service Register. However, the effect of such correction did not accrue to the first respondent/writ petitioner, since he retired from service on 30.04.2010. Therefore, the first respondent/writ petitioner filed the said Writ Petition seeking alteration of his retirement date as "31.05.2012", instead of "04.04.2010" and to disburse the salary increments, pension, provident fund and other consequential service benefits with 12% interest within a time frame. The said Writ Petition was allowed, as prayed for, except the relief of payment of interest. As against the said order, the appellants have come forward with the present Writ Appeal.

7. After hearing the learned counsel for the parties and perusing the materials available on record, we find that the relief sought for by the first respondent/writ petitioner is a consequential relief to the implementation of the decree passed by the Civil Court, which was done by issuing the Government Order, referred to above. However, insofar as the direction issued by the Writ Court with regard to the monetary benefits is concerned, admittedly, the first respondent/writ petitioner did not serve in the post beyond 04.04.2010 till 31.05.2012, which should have been his actual date of retirement, as per the amended date of birth. Therefore, for all the practical purposes, the first respondent/writ petitioner is only entitled to be considered notionally and accordingly, his date of retirement should be postponed to 31.05.2012. By doing this, the first respondent/writ petitioner would not be entitled to any monetary benefits for the said period, but only service benefits, which will accrue to him for the said period should be extended, as a result of which, the first respondent/writ petitioner could be entitled for a higher pension. Therefore, we are of the view that the Writ Court ought not to have ordered the payment of monetary benefits along with service benefits. Hence, to that extent, we are inclined to interfere with the order passed by the Writ Court.

8. Accordingly, the Writ Appeal is partly allowed and the appellants are directed to extend the service benefits to the first respondent/writ petitioner, by taking note of his date of retirement as 31.05.2012 and the order, directing payment of monetary benefits for the said period stands set aside. The appellants are directed to comply with the said direction within a period of four weeks from the date of receipt of a copy of this Judgment, consequence of which should follow out of this Judgment is that the first respondent/writ petitioner would be entitled for



pension from the date of his superannuation, viz., on 31.05.2012, which has to be fixed notionally for the reasons, which we have assigned in this Judgment. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar.

To

- 1.The Secretary to Government,
School Education Department,
Fort.St.George, Chennai.
- 2.The Director,
School Education Department,
Chennai.
- 3.The District Educational Officer,
Cheranmadevi Educational Officer,
Tirunelveli.

+1CC to M/S.T.Lajapathi Roy, Advocate, SR.No. 61341
+1CC to the Special Government Pleader SR.No. 61608

JUDGMENT MADE IN
W.A.[MD].No.684 of 2017
20.06.2017

NB

AM/KP/SAR 1/30.06.2017/4P/6C