



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2017

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.23163 of 2016

P.Nagarajan

... Petitioner

-vs-

1. The Director of School Education,
College Road,
Chennai-600 006.
2. The Joint Director of School Education (Vocational)
College Road,
Chennai-600 006.
3. The Chief Educational Officer,
Karur District, Karur.
4. The Headmaster,
Government Boys Higher Secondary School,
Pugaloor, Karur District.

... Respondents

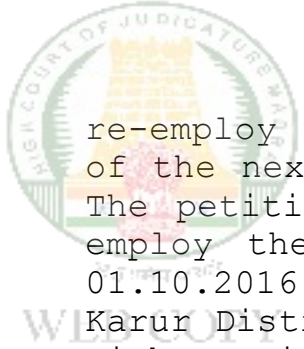
Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in relation to his proceedings issued in Na.Ka.No.7425/A2/2016 dated 30.09.2016 and quash the same and issue a consequential direction to the respondents to re-employ the petitioner in service as Vocational Instructor from 01.10.2016 at Government Boys Higher Secondary School, Pugaloor, Karur District till the end of the academic year, viz., 31.05.2017 with service and monetary benefits.

For Petitioner : Mr.R.Saseetharan

For Respondents : Mr.A.K.Baskara Pandian
Spl.Govt.Pleader

O R D E R

This petition has been filed, seeking to quash the impugned order dated 30.09.2016 passed by the 3rd respondent in Na.Ka.No.7425/A2/2016, by which, the request of the petitioner to



re-employ the petitioner from the date of retirement till the end of the next academic year, has been rejected for various reasons. The petitioner also sought a direction to the respondents to re-employ the petitioner in service as Vocational Instructor from 01.10.2016 at Government Boys Higher Secondary School, Pugaloor, Karur District till the end of the academic year, viz., 31.05.2017 with service and monetary benefits.

2. The main contention of the petitioner is that since his retirement falls in the middle of the academic year, he is entitled to be continued in service till the end of academic year on the basis of re-employment.

3. Per contra, learned Special Government Pleader appearing for the respondents drew the attention of this Court to G.O.Ms.No.1643 dated 27.10.1988, wherein the following conditions have been laid down for accepting such kind of request to be made by the employees like that of the petitioner:

i) The conduct and character of the teachers seeking reemployment should be satisfactory;

ii) The teacher has to produce certificate from the Government Medical Officer to the effect that he is physically fit to continue in reemployment period;

iii) There should not be any pending charges.

He has submitted that the petitioner was awarded a punishment of censure and the currency period of censure is one year from the date of imposition and the punishment of censure was imposed only on 03.06.2016 by the Joint Director of School Education (Vocational Education), which will be in force till the end of May, 2017.

4. Learned counsel for the petitioner has contended that the respondents cannot improve their case by way of filing an affidavit in the form of a counter, as the reasons now stated do not find place in the impugned order. In support of his submission, he relied on a judgment of the Hon'ble Supreme Court in the case of **Chandra Singh and others vs. State of Rajasthan and another**, reported in **(2003) 6 SCC 545**, wherein it has been stated that it is fairly well settled that the legality or otherwise of an order passed by a statutory authority must be judged on the face thereof as the reasons contained therein cannot be supplemented by an affidavit.

5. A close scrutiny of the impugned order dated 30.09.2016 would amply prove that the factum of pendency of disciplinary proceedings against the petitioner is duly mentioned in it and therefore, the contention of the petitioner that the respondents have supplemented new reasons by way of an affidavit, cannot be

accepted.

6. Hence, in view of the clear bar for the petitioner to seek reemployment on account of pendency of disciplinary proceedings, the relief sought for by the petitioner in this writ petition cannot be granted and the petitioner is not entitled for re-employment.

7. In the result, this Writ Petition fails and the same is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To:

1. The Director of School Education,
College Road,
Chennai-600 006.
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3. The Chief Educational Officer,
Karur District, Karur.
4. The Headmaster,
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Pugaloor, Karur District.

+1 cc to M/S.R.SASEETHARAN, Advocate SR.No.5546

+1 cc to Special Government Pleader SR.No.5315

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SMA/BS/03.03.2017:3P/7C