

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.6.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.1140 of 2018
and
C.M.P.No.9122 of 2018

1. The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.
 2. The Joint Director of School Education
(Secondary), DPI Campus,
College Road, Chennai 600 006.
 3. The Chief Educational Officer,
Salem District, Salem 636 001.
 4. The District Educational Officer,
Salem 636 001.
- Appellants

Versus

CSI Higher Secondary School,
rep. by its Correspondent V.John Peter,
Salem Fort, Salem 636 001.

Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 11.12.2017 passed in W.M.P.No.35081 of 2017 in W.P.No.1549 of 2015 on the file of this court.

PRAYER IN W.M.P.No.35081 of 2017 in W.P.No.1549 of 2015:

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Stay the Order dated 28.11.2017 passed by the Fourth Respondent in Na.Ka.No.558/B2/2015 and to permit Maths Teacher Mrs.Sheeba Bejamin to continue to work till 31.05.2018 as per Petitioner order dated 07.11.2017 (in WMP.No.35081/2017) pending disposal of the above WP.No.1549/2015.

PRAYER IN W.P.No.1549 of 2015:

Petition Under Article 226 of the Constitution of India praying for the issuance of writ of Certiorarified Mandamus to call for the records in Na.Ka. No.13755/ P2/2014 dated 20.11.2014 on the file of the third respondent and the consequential order dated 6.1.2015 passed by the third respondent in Na.Ka. No.09801/ Aa2/2014 and quash the same and to direct the third respondent to treat English Medium sections in Standard VI to Standard X in petitioner school as sections permitted with aid or to pass any other order this Hon'ble court may deem fit and proper in the circumstances of this case and thus render justice.

For appellant : Mr.C.Munusamy,
Special Government Pleader
For respondent : Mr.A.Immanvel

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned Special Government Pleader appearing for the appellants and Mr.A.Immanvel, learned counsel, who takes notice on behalf of the respondent.

2. The writ appeal has been filed by the appellants-Education Department challenging the interim order passed by the learned Single Judge in quashing the order passed by the fourth appellant and thereby permitting the respondent-School to re-employ one Mrs.Sheeba Benjamin, B.T. Assistant (Maths) till 31.5.2018.

3. It appears that the B.T. Assistant viz., Mrs.J.Sheeba Benjamin working in the respondent School was due to retire on 30.11.2017 during the middle of the academic year and hence, the respondent-School had sought for permission from the appellants to re-employ her till the end of the academic year, but, since the same was refused by the authorities, an interim application was filed in a pending writ petition filed by them with regard to staff fixation.

4. It is relevant to extract para 4 of the order passed by the learned Single Judge:

"Merely because, the said teacher has continued and retired in the same school, based on the order passed by this court, it cannot be a ground to deny permission to the petitioner school to retain her till the end of the academic year by way of re-employment. Though the prayer sought in the above W.M.P. is to stay the order of the fourth respondent dated 28.11.2017, the facts of

the case would prove that the said order is liable to be set aside, in view of G.O.No.249 dated 9.2.1959. Hence, the order of the fourth respondent dated 28.11.2017 is quashed and the re-employment order dated 7.11.2017 is sustained and the petitioner school is permitted to re-employ Mrs.Sheeba Benjamin, B.T. Assistant (Maths) till 31.5.2018..."

5. No doubt, even as per normal rules and practice, if a teaching staff retires in the middle of the academic year, his/her retirement shall be deemed to be till the end of academic year and there are several Government Orders had already been issued in this regard. In that view of the matter, though the Government has challenged the order passed by the learned Single Judge, the fact remains that the convention and custom is to continue the service of the person by way of deeming it till the end of the academic year. Such being the case, we do not find any ground to interfere with the order passed by the learned Single Judge. Accordingly, the writ appeal is dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.
2. The Joint Director of School Education
(Secondary), DPI Campus,
College Road, Chennai 600 006.
3. The Chief Educational Officer,
Salem District, Salem 636 001.
4. The District Educational Officer,
Salem 636 001.

+1cc to Mr.A.IMMANUEL Advocate, S.R.No.40797
+1cc to the Government Pleader, S.R.No.41366

W.A.No.1140 of 2018

SPD(CO)
TR(24/07/2018)