

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.6.2018

CORAM

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

W.A.No.1222 of 2018

S.Selvaraj

Appellant

Versus

- 1 The Secretary to Government
School Education Department
Fort St. George Chennai-600 009.
- 2 The Director of Elementary Education
College Road Chennai-600 006.
- 3 The District Elementary Educational Officer
Tirunelveli Tirunelveli District.
- 4 The Additional Assistant Elementary
Educational Officer
Valliyur Range Valliyur
Tirunelveli District.
- 5 The Principal Accountant General
(A&E) Tamilnadu
361 Anna Salai Chennai-600 018.

Respondents

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 18.12.2017 passed in W.P.No.30554 of 2014 on the file of this court.

WP.NO.30554/2014:

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus to call for the records connected in Na.Ka.No. 1675/B2/2014 dated 13.8.2014 of the 4th respondent and quash the same and consequently direct the respondents to implement the order of the Honourable High Court dated 09.12.2013 in letter and spirit by extending the benefits

under G.O.Ms.No.234 School Education (G-2) Department dated 10.09.2009 and G.O.Ms.No.179 School Education Department dated 06.09.2013 and direct the respondents to count the service rendered by the petitioner in the post of Secondary Grade Teacher prior to 01.06.1988 along with the service rendered in the post of Primary School Headmaster and grant all consequential benefits including pay fixation arrears consequently revised pension.

For appellant : Mr.G.Elanchezhian

For RR1 to 4 : Mr.C.Munusamy,
Special Government Pleader

For R5 : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

JUDGMENT

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

Heard the learned counsel appearing for the appellant and Mr.C.Munusamy, learned Special Government Pleader and Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader who takes notice on behalf of respondents 1 to 4 and 5 respectively.

2. Challenging the order passed by the learned Single Judge in dismissing the writ petition and thereby rejecting the claim of the writ petitioner for the benefit of fixation of higher pay under G.O.(Ms.) 234 of 2009 dated 21.2.2008, has filed the present writ appeal.

3. The learned Single Judge, referring to a judgment of the Division Bench in W.A.No.815 of 2010, etc., disposed on 7.7.2011 especially, the observation made by the Division Bench while dismissing the writ appeals, in para 29 and 30 of the said judgment to the effect that there was inordinate delay on the part of the petitioners as the cause of action arose for them to file writ petitions much earlier and hence, they were mere fence-sitters/watchers and they were waiting for the litigation engineered at the instance of similarly placed persons to conclude before they file the writ petitions and therefore, they are not entitled to the relief sought for by them, dismissed the present writ petition on the ground of delay and laches.

4. The learned Single Judge has also found that such a conclusion is fortified by the judgment of the Apex Court in

RAMACHANDRA SHANKAR DEODHAR AND OTHERS v. THE STATE OF MAHARASHTRA AND OTHERS ((1974) 1 SCC 317) wherein it is held that there was more than ten or twelve years in filing the petition since the accrual of the cause of complaint, and such delay was sufficient to disentitle the petitioners to any relief under Article 32 of the Constitution of India.

5. In that view of the matter, we have no gainsay to differ from the decision taken by the learned Single Judge. The writ appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssk.

To:

- 1 The Secretary to Government
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(A&E) Tamilnadu
361 Anna Salai Chennai-600 018.

+1cc to Government Pleader sr.no.42285

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nr 07/08/2018