

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.790 of 2017

A.Perumal

...Appellant/Petitioner

Vs

1.The Director of School Education
D.P.I. Compound
College Road
Chennai 600 006.

2.The Chief Educational Officer
Dindigul
Dindigul District.

...Respondents/Respondents

Prayer:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed by this Court in W.P.No.6699 of 2017 dated 20.03.2017.

W.P.No.6699 of 2017:

Writ Petition filed under Article 226 of the constitution of India seeking a Writ of Certiorarified Mandamus calling for the records relating to the order in Na.Ka. No. 2515/A9/2014 dated 16.02.2016 of the second respondent herein and the consequential order in O.Mu. No.33796/ C1/ E2/ 2016 dated 19.08.2016 of the 1st Respondent herein and quash the same and further direct the Respondents to pay the monetary benefits in terms of salary payable to the petitioner for the re-Employment period from 17.09.2003 to 31.05.2004 within the time frame.

For Appellant : Mr.R.Muthukkannu

For Respondents: Mr.K.Karthikeyan

Government Advocate (Education)

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The challenge in this intra court appeal is to the order dated 20 March 2017 in W.P.No.6699 of 2017 dismissing the writ petition filed by the appellant challenging the order dated 16 February, 2016 on the file of the second respondent and the consequential order dated 19 August, 2016 on the file of the

first respondent. The claim made by the appellant for payment of monetary benefits for the period from 17 September, 2003 to 31 May, 2004 was rejected by the Education Department, notwithstanding the earlier order dated 18 November, 2014 in W.P.No.17327 of 2007.

2. When this appeal came up for hearing before this Court on 01 February, 2018, it was found that the Chief Educational Officer, Dindigul, notwithstanding the direction given by this Court in W.P.No.17327 of 2007, rejected the claim for payment of wages for the period from 17 September, 2003 to 31 May, 2004. We therefore, passed the following order on 01 February, 2018:

"The learned Single Judge by order dated 18 November, 2014 in W.P.No.17327 of 2007 directed the respondents herein to pay wages to the appellant for the period from 17 September, 2003 to 31 May, 2004 taking into account the re-employment. The order has become final, as no appeal was filed against the said order.

2. The Chief Educational Officer, Dindigul, by order dated 16 February, 2016 rejected the claim for monetary benefits for the period from 17 September, 2003 to 31 May, 2004 even after noting the direction given by the learned Single Judge.

3. The said order was challenged before the learned Single Judge. The learned Single Judge dismissed the writ petition with an observation that without understanding the background facts, the earlier order was passed by the learned Single Judge directing payment of salary for the period from 17 September, 2003 to 31 May, 2004.

4. The Chief Educational Officer, Dindigul, virtually sat in appeal over the order passed by the learned Single Judge of this Court. He has no business to pass an order of this nature in the light of the order passed by the learned Single Judge directing payment of wages from 17 September, 2003 to 31 May, 2004. When it was pointed out to the learned Government Advocate that it is a fit case to initiate proceedings for contempt against the Chief Educational Officer, he submitted that the order passed by the learned Single Judge would be implemented and entire payment would be made to the respondent by next week. In view of the said submission, post of 12 February, 2018 under the caption "For Orders", failing which, the Director of School Education

shall appear before this Court in person on 13 February, 2018."

3. When the intra court appeal is taken up for hearing today, the learned Government Advocate produced a copy of the order dated 10 February, 2018 on the file of the Chief Educational Officer, Dindigul, sanctioning the wages for the period from 17 September, 2003 to 31 May, 2004. The payment shall be made within a period of two weeks from today.

4. In view of the compliance of the earlier direction given by the learned Single Judge in the order dated 18 November, 2014 in W.P.No.17327 of 2007, we are of the view that nothing survives for adjudication in the intra court appeal.

5. We hope that the authorities would not act as appellate authority over the orders passed by the High Court. This case should be an eye opener for the Government officials, inasmuch as under the present constitutional set up, it would not be possible for the executive to sit on appeal over the decision of the judiciary.

The intra court appeal is dismissed with the above observation. No costs.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

gms

To

1. The Director of School Education
D.P.I. Compound
College Road
Chennai 600 006.

2. The Chief Educational Officer
Dindigul
Dindigul District.

+1 CC to Mr.R. Muthukannu, Advocate sr 7503.
+1 CC to Govt. Pleader sr 11159.

W.A.No.790 of 2017

SP(08/03/2018)