

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.4918 of 2018

A.Ramanathan

.. Petitioner

-vs-

1. The Government of Tamil Nadu
rep by its Principal Secretary to Government
School Education Department
Fort St.George
Chennai 600 009
2. The Joint Director of School Education
(Personnel Department)
College Road
Chennai 600 006
3. The District Educational Officer
Erode, Erode District .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first respondent to dispose of the petitioner's representation dated 19.05.2016, which was given seeking for postings and regularisation of the petitioner's service in the post of Junior Assistant from the date of his initial appointment in the lower post as Record Clerk i.e., on 01.08.1989 with all consequential benefits, based on the recommendation of the Headmaster, Government Higher Secondary School, Ondipudur, Coimbatore District dated 25.05.2016 and in the light of G.O.Ms.No.1499, Labour and Employment (Q1) Department dated 03.08.1989 and G.O. (1D) No.153, School Education (R1) Department dated 20.04.2009 (issued in the matter of S.Pachaiyappan) on merits within a time frame stipulated by this Hon'ble Court.

For Petitioner :: Mr.A.S.Kaizer

For Respondents :: Mr.V.Kadhirvelu
Special Government Pleader for R1
Mr.P.Raja, Govt.Advocate for R2 & 3

ORDER

This writ petition has been filed seeking a mandamus, directing the Government of Tamil Nadu represented by the Principal Secretary to Government, School Education Department, the first respondent herein to dispose of the petitioner's representation dated 19.05.2016, wherein he has sought for postings and regularisation of his services in the post of Junior Assistant from the date of his initial appointment in the lower post of Record Clerk viz., from 1.8.89 with all consequential benefits, based on the recommendation of the Headmaster of Government Higher Secondary School, Ondipudur, Coimbatore District dated 25.5.2016 and also in the light of G.O.Ms.No.1499, Labour and Employment (Q1) Department dated 03.08.1989 and G.O.(1D) No.153, School Education (R1) Department dated 20.04.2009 (issued in the matter of S.Pachaiyappan) on merits within a time frame stipulated by this Hon'ble Court.

2. Learned counsel for the petitioner submitted that the petitioner was appointed on compassionate ground as a Record Clerk, even though he was qualified for the post of Junior Assistant at the time of his appointment i.e., on 1.8.89. Since his father late E.Ananda Subramanian died on 5.4.84 while serving as Secondary Grade Assistant in harness, the petitioner was in dire need of employment to eke out his livelihood. Therefore, he had accepted the post of Record Clerk with the SSLC qualification. The said appointment was made, as there was no vacancy in the post of Junior Assistant. However, since he had performed his duty in the post of Record Clerk from 1989 till 10.12.95, he was considered along with others for appointment to the post of Junior Assistant. Accordingly, by proceedings dated 4.12.95, the District Educational Officer, Erode, the third respondent herein appointed him as Junior Assistant and posted him at Government High School, Bellampatti. After completion of one year from the date of his appointment in the post of Junior Assistant, his services should have been regularised. But the respondent Department did not come forward to pass any order regularising his services in the post of Junior Assistant for a long time. Therefore, after sending representations, finding no response for his regularisation, he came to this Court with W.P.No.7527 of 2008 seeking a mandamus to consider his case for regularisation in the post of Junior Assistant. Accordingly, this Court, by order dated 27.3.2008, directed the first respondent to dispose of his representation dated 22.10.2007 on merits. Finally, after filing a contempt petition, the first respondent passed orders in G.O.Ms.No.56, School Education (S1) Department dated 13.2.2009 regularising his services in the post of Junior Assistant with effect from 11.12.95, the date of his appointment in the post of Junior Assistant and thereafter the first respondent also passed

another G.O.(1D) No.84, School Education (R2) Department dated 8.3.2010 declaring his probation in the post of Junior Assistant and subsequently, he was also promoted as Assistant on 4.10.2010 and posted at the office of Assistant Elementary Educational Officer, Kundadam in Tiruppur District. Later on, he was also promoted as Desk Superintendent on 28.2.2014 and posted at the office of the District Elementary Educational Officer, Chennai. Thereafter, he was posted as Superintendent by an order dated 30.8.2016 and posted at the office of the Assistant Elementary Educational Officer, Kangeyam and now he is serving in the office of the Assistant Elementary Educational Officer, Kundadam, Tiruppur District. Under this background, the grievance of the petitioner is that when some other similarly placed persons were appointed on compassionate ground, for instance, one Mr.S.Karthikeyan, who had sought compassionate appointment, was directly appointed as Junior Assistant on 25.5.90 based on his educational qualification, the petitioner was not considered at the time of his appointment to the post of Record Clerk based on his qualification viz., SSLC pass. Therefore, a direction should be issued to consider his case for regularisation in the post of Junior Assistant from the date of his initial appointment in the post of Record Clerk.

3. But this Court hardly finds any reason to entertain the belated prayer sought in this writ petition. When the petitioner's father, while serving as Secondary Grade Assistant, died in harness leaving behind the petitioner and other legal heirs, the petitioner was appointed in the post of Record Clerk as early as on 1.8.89, as he possessed only the SSLC qualification. After accepting the said post of Record Clerk and getting an order from this Court on 27.3.2008 in W.P.No.7527 of 2008 for disposal of his representation dated 22.10.2007 seeking regularisation of his services, the first respondent also passed an order in G.O.Ms.No.56, School Education (S1) Department dated 13.2.2009 regularising his services in the post of Juniot Assistant with effect from 11.12.95. The petitioner silently and quietly accepted the same, as he did not object for regularisation of his services from the date of his appointment in the post of Junior Assistant. Having not challenged the order then and there, after gaining several promotional avenues, he cannot come to this Court at this stage. Hence, this Court, finding no merit whatsoever, is not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Asst.Registrar (CS VIII)

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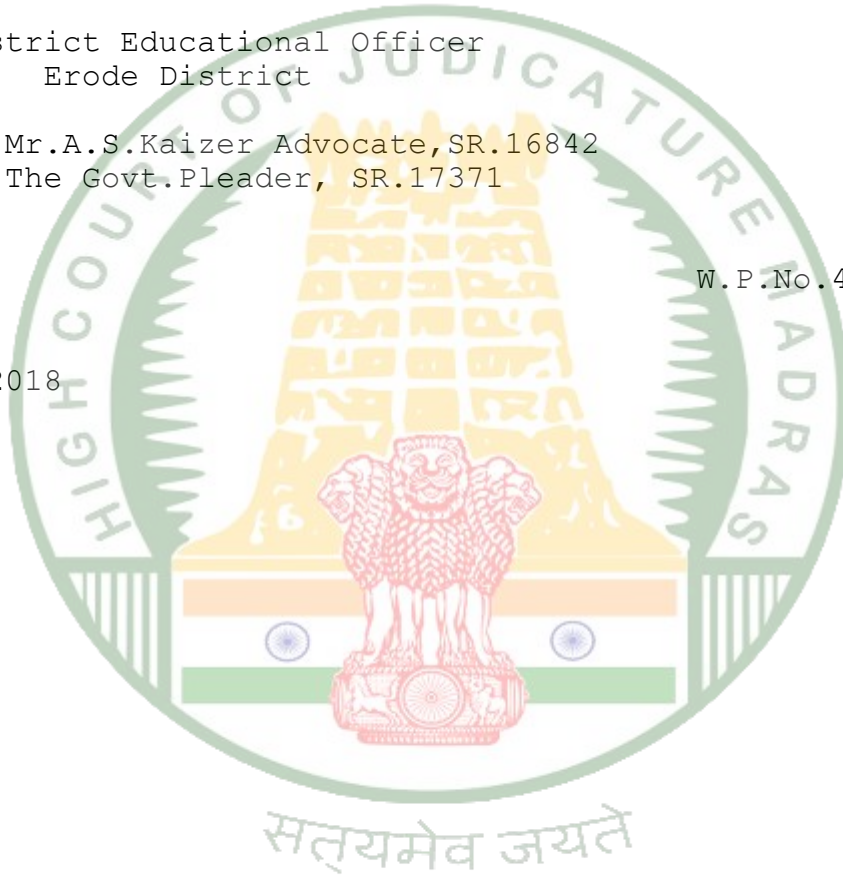
Sub Asst. Registrar

To

1. The Principal Secretary to Government
School Education Department
Fort St.George
Chennai 600 009
 2. The Joint Director of School Education
(Personnel Department)
College Road
Chennai 600 006
 3. The District Educational Officer
Erode, Erode District
- + 1 cc to Mr.A.S.Kaizer Advocate, SR.16842
+ 1 cc to The Govt.Pleader, SR.17371

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