

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.01.2018

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

W.P.No.10518 of 2013 and
M.P.No.2 of 2013

V.K.Shanmugam

... Petitioner

/Vs/

1.The State of Tamil Nadu,
Represented by its Secretary,
Government of Education Department,
Secretariat, Chennai - 600 009.

2.The Director of School Education,
College Road, Chennai - 600 006.

3.The District Education Officer,
Villupuram District,
Villupuram.

... Respondents

Prayer:

Writ Petition filed under Article 227 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in connection with the order passed by the first respondent in G.O.Ms.No.179 dated 13.07.2012, School Education (R1) Department and quash the same to the extent of regularising the service with monetary benefit from the date of the Government Order instead of paying the monetary benefit from the date of completion of 10 years i.e., 03.08.2002 as done by G.O.Ms.No.247, Education (R1) Department, dated 03.10.2012 and direct the respondents to pay the monetary benefits with effect from 03.08.2002 in the light of G.O.Ms.No.247 Education (R1) Department, dated 03.10.2012.

For Petitioner :M/s R.Singaravelan, Senior Counsel
For M/s M.Srividhya

For Respondents:Mr.K.Venkatramani
Additional Advocate General
Assist by:
Mr.R.Govindasamy
Special Government Pleader

O R D E R

This writ petition is preferred by the petitioner against the order passed by the Secretary to Government of Educational Department, Chennai / 1st respondent in G.O.Ms.No.179 dated 13.7.2012 School Education (R1) department quash the same to the extent of regularizing the service with monetary benefit from the date of the Government order instead of paying the monetary benefit from the date of completion of 10 years i.e 3.8.2002 as done by G.O.Ms.No.247 Educational (R1) Department dated 3.10.2012 and direct the respondents to pay the monetary benefits with effect from 3.8.2002 in the light of G.O.Ms.Nos.247 Education (R1) Department dated 3.10.2012.

2.Brief case of the petitioner:

The facts of the case is that the petitioner was appointment to the post of Night Watchman through the employment exchange on 3.8.1992 in Government Higher Secondary School, Pillur. The Government passed in G.O.Ms.No.1769 dated 13.7.2012 regularizing the service of 105 employees appointed through the employment exchange and 7 employees on the basis of the order passed by this Hon'ble court with effect from the date of initial appointment but with monetary benefit from the date of G.O. i.e. 13.7.2012 by relaxing necessary rules regarding age and rostar. As far as petitioner concerned at S.No.33 of the annexure to the above G.O. and through petitioner name in V.K.Shanmugham the initial V is omitted and the same represents petitioners place Villupuram. However for the petitioner, the age is relaxed, though the petitioner was having age limit on the date of my initial appointment on 3.8.1992 but monetary benefit is ordered to be paid to only from the date of order from 13.7.2012. When the government have regularized the service of 614 candidates by way of G.O.MS.No.247 dated 3.10.2012 with effect from the date of initial appointment and paid monetary benefit from the date of completion of 10 years, it is know is to why the government have not paid the monetary benefit to the petitioner from the date of completion of 10 years.

3.Counter objections submitted by the 3rd respondent:

The petitioner was sponsored by the employment exchange and appointed as full time watchman in the regular time scale of pay and posted to the Government Higher Secondary School, Pillur by the District Educational Officer, Villupuram . The petitioner joined in that post on 3.8.1992. During his service petitioner passed SSLC in the year 1993. According to the seniority the petitioner was promoted as Laboratory Assistant by the 3rd respondent and posted to the government higher secondary school Mambalapattu. The petitioner had joined duty on 3.6.2013 F.N.

4. In G.O.Ms.No.179 School Education (R1) department, dated 13.7.2012 as per the orders of this Hon'ble court passed and regularized the services of 112 persons mentioned in the annexure to the said G.O., no name as V.K.Shanmugam was found. But instead of that the name K.Shanmugam was mentioned in Sl.No.33 of the annexure, for whom the age is relaxed. The petitioner had stated that the said K.Shanmugam is of him and requested to regularize his services from the date of his initial appointment i.e 3.8.1992. The services of the petitioner was regularized by the District Educational Officer, Tindivanam from 3.8.1992 with monetary benefit from the date of issue of the said government order vide proceedings Mu.Mu.No.7611 A1/2012 dated 18.10.2012.

In G.O.Ms.No.247 School Education (R1) department dated 3.10.2012 is issued in favour of 614 persons to the effect that the monetary benefit would be from the date of completion of 10 years from the date of such regularization could not be applied on behalf of the petitioner, since the said G.O. is passed particularly in respect of the 614 respective persons.

5. It is pertinent to mention here that the order dated 18.10.2012 passed by the District Educational officer, Tindivanam is based on the rules and regulations and the relevant Government orders only. Moreover, it is respectfully submitted that the impugned order of the District Educational Officer, Tindivanam is quite in order and is liable to be upheld by law and justice and the Government Pleader sought for dismissal of the writ petition.

6. Heard the arguments on either side and perused the entire materials available on record.

7. It is my absolute view that once the service is regularized with effect from the date of initial appointment the monetary benefit also should be paid only with effect from the date or atleast from the date of completion of 10 years service as done by G.O.Ms.No.247.

8. The Government passed in G.O.Ms.No.1769 dated 13.7.2012 regularizing the service of 105 employees appointed through the employment exchange and 7 employees on the basis of the order passed by this Hon'ble court with effect from the date of initial appointment but with monetary benefit from the date of G.O. i.e. 13.7.2012 by relaxing necessary rules regarding age and roster. As far as petitioner concerned at S.No.33 of the annexure to the above G.O. and through petitioner name in V.K.Shanmugam the initial V is omitted and the same represents petitioners place Villupuram. However for the petitioner, the age is relaxed, though the petitioner was having age limit on the date of my initial appointment on 3.8.1992 but monetary

benefit is ordered to be paid to only from the date of order from 13.7.2012. When the government have regularized the service of 614 candidates by way of G.O.MS.No.247 dated 03.10.2012 with effect from the date of initial appointment and paid monetary benefit from the date of completion of 10 years, it is know is to why the government have not paid the monetary benefit to the petitioner from the date of completion of 10 years.

9. When the respondents applied regularised and paid the monetary benefits to the other employees, the failure to granting to this petitioner is not only arbitrary and unreasonable being violative of articles 14, 16 and 21 of the Constitution of India, but also is against all the principles of natural justice, fair play, equity and good conscience.

10. In the result:

a) The writ petition is allowed and the impugned order in G.O.Ms.No.179 dated 13.07.2012, School Education (R1) Department passed by the 1st respondent in respect of regularize of service with monetary benefits from the date of Government Order;

b) The respondents are directed to regularize the petitioner's service from the date of completion of 10 years i.e. on 03.08.2002 as done by the respondents as per G.O.Ms.No.247 Education (R1) Department dated 03.10.2012 with monetary benefits;

c) The said exercise shall be done with a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected M.P.No.2 of 2013 is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

To

1. The State of Tamil Nadu,
Represented by its Secretary,
Government of Education Department,
Secretariat, Chennai - 600 009.

2. The Director of School Education,
College Road, Chennai - 600 006.

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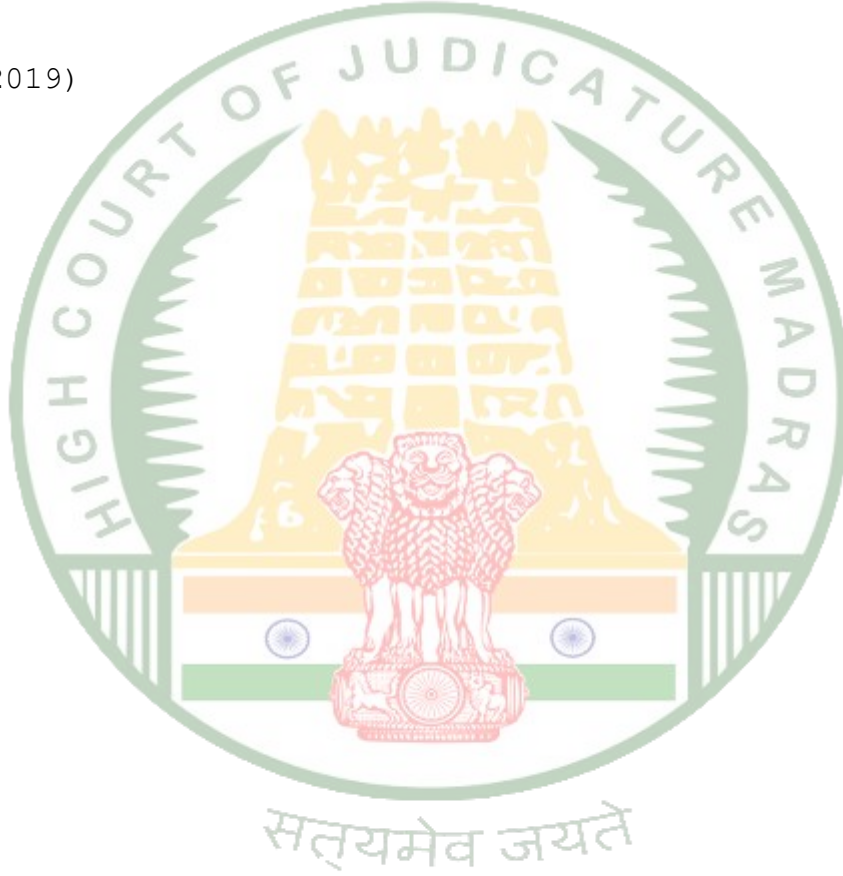
3.The District Education Officer,
Villupuram District,
Villupuram.

+1cc to Mr.Srividhya, Advocate, S.R.No. 7495

+1cc to the Government Pleader, S.R.No.7948

W.P.No.10518 of 2013 and
M.P.No.2 of 2013

KAN (CO)
GN (02/04/2019)



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