

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 02.04.2018

CORAM:
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE, J.

W.A No.1244 of 2016

M.Usman

... Appellant

-Vs-

- 1.The Government of Tamil Nadu,
Rep. by Principal Secretary,
School Education Department,
Fort St.George, Chennai.
- 2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai -6.
- 3.The Assistant Educational Officer,
Papireddipatti, Dharmapuri District.
- 4.The Assistant Elementary Education Officer,
Papireddipatti, Dharmapuri District.
- 5.The Director of Pensions,
DMS Complex, Chennai - 6. Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P No.5121 of 2016 dated 11.02.2016.

WP.No.5121 of 2016:Petition filed for issuance of a writ of mandamus directing the respondents to consider and pass orders on the representation dated 14.2.2010 and 23.12.2015 seeking re-fixation of pay scale as Head Master from 1.6.88 and further increments for Selection Grade and Special Grade till retirement and all subsequent attendant and monetary benefits.

For Appellant : Mr.N.A.Nissar Ahmed

For Respondents: Mr.K.Karthikeyan
Addl. Govt. Pleader

J U D G M E N T
[Judgment of the Court was delivered by
K.K.SASIDHARAN, J.]

The claim made by the appellant on the basis of the
Government Order in G.O.(Ms).No.202 School Education

Department, dated 24 September 2008 was negatived by the learned single Judge on the ground of delay and laches. Feeling aggrieved, the unsuccessful writ petitioner is before this Court.

2. The learned counsel for the appellant contended that the order in G.O.(Ms).No.202 dated 24 September 2008 was issued subsequent to the retirement of the appellant from service on attaining the age of superannuation on 11 March 2001. The appellant immediately after the issuance of the Government Order submitted representation to give him the benefits. However, there was no follow up action taken by the respondents. It was only under such circumstances, the appellant filed a writ petition to consider his representation on merits. The learned counsel contended that on merits, the learned single Judge ought to have granted the relief to the appellant.

3. The learned Government Advocate appearing on behalf of the respondents submitted that the prayer in the writ petition is only for considering the representation and as such, in the event of giving a direction, the respondents would consider the representation on merits.

4. The appellant retired from service on attaining the age of superannuation on 11 March 2001. The Government issued an order in G.O.Ms.No.202 dated 24 September 2008 taking into account the grievances projected by the Elementary School Headmasters, who were posted as Secondary Grade Teachers in the Panchayat after transfer. The Government made it clear that all those teachers who are covered under the category of Elementary School Headmasters appointed as Secondary Grade Teachers prior to 1 June 1988 would be given the benefit. It is true that there was a little delay in approaching the Court by the appellant. However, the Government Order in G.O.Ms.No.202 dated 24 September 2008 being a beneficial piece of executive order covering the field, the same cannot be denied to the employee only on the ground that he has approached the Court with considerable delay. We are therefore of the view that the issue requires consideration by the respondents.

5. We give liberty to the appellant to submit a fresh representation to claim the benefits of the relevant Government Order. In case, any such representation is given, the second respondent shall consider the same on merits and as per law and more particularly in the light of the Government Order in G.O.Ms.No.202 dated 24 September 2008. Such exercise shall be completed within a period of three months from the date receipt of representation.

6. The writ appeal is allowed to the extent indicated above. No costs.

svki

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Secretary,
The Government of Tamil Nadu,
School Education Department,
Fort St.George, Chennai.
- 2.The Director of Elementary Education,
DPI Campus, College Road,
Chennai -6.
- 3.The Assistant Educational Officer,
Papireddipatti, Dharmapuri District.
- 4.The Assistant Elementary Education Officer,
Papireddipatti, Dharmapuri District.
- 5.The Director of Pensions,
DMS Complex, Chennai - 6.

+1cc to M/s.N.A.Nissar Ahmed, Advocate Sr.No.24285

+1cc to Government Pleader SR.No.24622

NRI (CO)

sm:27.4.2018

W.A No.1244 of 2016

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