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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD) No.19285 of 2014

P.Maruthappa Pandian ... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by its Secretary to Government,
Education Department,
Secretariat, Chennai.

2.The Director of Elementary Education,
College Road, Chennai-6.

3.The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.

4.The Additional Assistant Elementary Educational Officer,
Cheranmahadevi,
Tirunelveli District.

5.Sri Ramakrishna Middle School,
Cheranmahadevi,
Tirunelveli,
Represented by its Secretary cum Correspondent,
Swamy Kailasanandha. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents 1 to 4 to approve the appointment of the petitioner as Secondary Grade Teacher in the fifth respondent school with effect from 14.11.1996 and to sanction and pay all monetary and service benefits from 14.11.1996 to 01.06.2003 and also to calculate the said period for the pensionary benefits.

For Petitioner : Mr.S.C.Herold Singh
For Respondents : Mr.Gunaseelan Muthiah for R1 to R4
Additional Government Pleader

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ORDER

Heard the learned counsel on either side.

2.The petitioner was appointed in the fifth respondent school on 14.11.1996 as Secondary Grade Teacher. Following the issuance of G.O.Ms.No.155, School Education D2 Department dated 03.10.2002, the petitioner was permitted to undergo child psychology training which he completed on 31.05.2003. Thereafter, the District Elementary Officer, Tirunelveli District, issued proceedings dated 28.07.2003, for granting approval for the appointment of the petitioner as secondary grade teacher from the date of completion of the said child psychology training course. The petitioner chose to accept the said order of an approval and keep quiet. Only much later, he lodged a representation dated 15.02.2013 and thereafter filed the present writ petition for directing the authorities to approve his appointment as a secondary grade teacher in the fifth respondent school with effect from 14.11.1996 and for payment of consequential benefits.

3.The learned counsel appearing for the petitioner placed reliance on quite a few decisions of this Court particularly the one dated 22.01.2013 made in *W.P.(MD).Nos.19821 of 2003, 11443, 12095, 12317, 12318 of 2005-(S.Singarayar, S.Chandrasekar, T.M.Khajamohideen, G.Chockalingam Vs. State of Tamil Nadu, Represented by Secretary to Government, Educational Department, Fort St. George, Chennai-3).* The learned counsel appearing for the petitioner would further submit that the period from 1996 to 2003 during which the petitioner admittedly served in the fifth respondent school ought to be counted for pension purposes.

4.The learned Additional Government Pleader appearing for the respondents 1 to 4 would oppose the prayer made in the writ petition and sought dismissal of this writ petition. The petitioner has filed this petition in the nature of writ of Mandamus. He has not questioned the order dated 28.07.2003, issued by the third respondent herein, granting approval of his appointment. In other words, the said proceedings dated 28.07.2003 stands unchallenged. The said proceedings was issued in terms of GO.MS.No.155 School Education D2 Department, dated 03.10.2002.

5.In the cases relied upon by the learned counsel for the petitioner, the clauses 3 and 8 of G.O.Ms.No.155 dated 03.10.2002, School Education D2 Department, were specifically impugned. In the present case, there is no such challenge. More than anything else, the petition also suffers from the vice of laches. When the order of an approval was issued as early as on 28.07.2003, the writ petition itself came to be filed eleven years later. That is why in the counter affidavit filed by the fourth respondent, it was specifically pointed out that the petitioner cannot claim the benefit that was extended to other persons who have approached this Court in time and by mounting a specific challenge to the relevant

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clause in G.O.Ms.No.155 School Education D2 Department dated 03.10.2002. The petitioner cannot claim parity with those persons. The petition suffers not only the vice of laches but is also not maintainable.

6.The Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To
1.The Secretary to Government,
Education Department,
Secretariat, Chennai.

2.The Director of Elementary Education,
College Road, Chennai-6.

3.The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.

4.The Additional Assistant Elementary Educational Officer,
Cheranmahadevi,
Tirunelveli District.

+1cc to M/S.Special Government Pleader,SR. 42262
+1cc to Mr.S.C.HEROLD SINGH,Advocate,SR. 41442

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