



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2018

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WEB COPY

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.2346 of 2013
and
M.P.(MD) No.1 of 2013

V.Perumalsamy

... Petitioner

-vs-

- 1.The Director,
Department of Elementary School Education,
College Road,
Chennai-6.
- 2.The Director,
Department of School Education,
College Road,
Chennai-6.
- 3.The Accountant General,
Accountant General Office,
Thennampettai,
Chennai-18.
- 4.The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.
- 5.The Assistant Elementary Educational officer,
Kuruvikulam,
Sankarankovil Taluk,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the impugned order passed by the 5th respondent herein in his proceedings No.Na.Ka.No.783/A4/2011, dated 30.12.2011 and quash the same consequently directing the respondents to grant the service benefits based on the petitioner representation dated 24.11.2011, in the light of the G.O.M.S.No.202, School Educational Department dated 24.09.2008.

For Petitioner : Mr.P.Subbaraj
For R1,R2,R4,R5 : Mrs.V.P.M.Vaishnavi,
Government Advocate
For R3 : Mr.P.Gunasekaran

O R D E R

The order of rejection, dated 30.12.2011 in respect of the claim of the writ petitioner for counting of the services rendered by him as Secondary Grade Assistant prior to 1.6.1988 for the purpose of grant of selection grade is under challenge in this writ petition.

2.The writ petitioner was appointed as an Assistant Teacher in Panchayat Union School, Kallal in Sivagangai District on 04.01.1962 and retired from service on 31.07.1993 on attaining the age of superannuation.

3.The grievance of the writ petitioner is that the services rendered by him as Secondary Grade Assistant prior to 1.6.1988 had not been taken into account for the purpose of grant of Selection Grade and Special Grade, so as to get the revised pensionary benefits. First of all, the writ petitioner was retired from service on 31.07.1993. The representation of the writ petitioner itself was submitted on 24.11.2011. Thus, the writ petitioner has submitted the representation in respect of his grievances after a lapse of about 18 years from the date of retirement. Thus, the very claim of the writ petitioner is not only stale but also highly belated. The writ petitioner had slept over his right for many number of years. The present writ petition is liable to be rejected on the ground of laches also.

4.The learned counsel appearing on behalf of the third respondent would submit that the writ petitioner was not at all serving as Headmaster prior to 1.6.1988 as per the conditions stipulated in G.O.Ms.No.202, dated 24.09.2008. In this regard, paragraph 7 of the counter affidavit filed by the third respondent is relevant and the same is extracted hereunder:-

"7.It is submitted that in the instant case, it can be seen from the statement of service forwarded by the 5th respondent and reproduced above that at the time of his transfer from the Panchayat union Elementary School, Ilayarasanendal on 5.9.1975 to the Panchayat Union Elementary School, Kalingapatti he was serving only as a Secondary Grade Assistant. Further, the aforesaid transfer is within the same Panchayat union, namely Kuruvikulam Panchayat Union. He has therefore, not satisfied the primary condition that "he should have been transferred from one Panchayat Union to another before 1.6.88". As the transfer was within the same Panchayat Union (Kuruvikulam) he is not eligible for the benefits conferred by G.O.Ms.No.202 dated 24.09.2008."

5.In this view of the matter, the writ petition is devoid of merits and further there is an enormous delay even in approaching the competent authority and by this Court. Thus, no further adjudication is required.



6. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar.

To

1. The Director,
Department of Elementary School Education,
College Road, Chennai-6.
2. The Director,
Department of School Education,
College Road, Chennai-6.
3. The District Elementary Educational Officer,
Tirunelveli,
Tirunelveli District.
4. The Assistant Elementary Educational officer,
Kuruvikulam,
Sankarankovil Taluk,
Tirunelveli District.

+1CC to Mr.P.Subbaraj, Advocate, SR.No. 51530
+1CC to Mr.P.Gunasekaran, Advocate, SR.No. 51756
+1CC to the Special Government Pleader SR.No.51594

W.P.(MD) No.2346 of 2013
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