



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2018

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No.8856 of 2013

and

M.P(MD)No.1 of 2013

D.Seran

... Petitioner

Vs

1. The District Elementary Educational Officer,
Tirunelveli.

2. The Assistant Elementary Educational Officer,
Pappakudi-627 602.
Tirunelveli District.

3. The Hindu Middle School,
rep. By its Secretary,
Odaikarai Thulukkapatti Post,
Ambasamudram Taluk,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondents to pay salary to the petitioner for the period from 01.12.2003 to 02.04.2004 and from 01.08.2004 to 31.12.2004 as per the order passed by the first respondent in his proceedings Na.Ka.No.11851/A2/2003 dated 17.08.2006 including the revision of scale of pay as per the VI Pay Commission recommendation issued in G.O.ms.No.234, Finance Department, dated 01.06.2009 and confer all the consequential benefits.

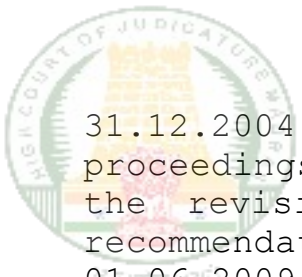
For Petitioner : M/s.C.S.Associates

For R1 & R2 : Mr.M.Muthu,
Additional Government Pleader

For R3 : Mr.E.V.N.Siva

ORDER

The relief sought for in this writ petition is for a direction to direct the respondents to pay the salary to the petitioner for the period from 01.12.2003 to 02.04.2004 and from 01.08.2004 to



31.12.2004 as per the order passed by the first respondent in his proceedings in Na.Ka.No.11851/A2/2003, dated 17.08.2006 including the revision of scale of pay as per the VI Pay Commission recommendation issued in G.O.Ms.No.234, Finance Department, dated 01.06.2009.

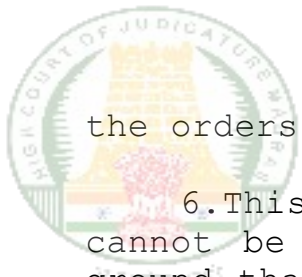
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2.The grievance of the writ petitioner is that the salary due to the above said period has not been disbursed. The District Elementary Educational Officer, Tirunelveli in his proceedings, dated 17.08.2006 has directed the Management of the School to pay the salary during the relevant period from 01.12.2003 to 02.04.2004. In spite of the order passed by the District Elementary Educational Officer, the salary due to the writ petitioner has not been paid.

3.The learned counsel appearing on behalf of the respondents 1 & 2 states that the proposal was submitted in respect of the arrears of salary and the same was already paid to the writ petitioner.

4.In respect of the present claim, it is not made clear whether the management has paid the salary from the management side or not. May that it be, this Court has raised the question that how the writ petition is maintainable since the same is filed after a lapse of about 9 years from the date of cause of action arosed. The salary due sought for by the petitioner is for a period from 01.12.2003 to 02.04.2004 and 01.08.2004 to 31.12.2004. This apart, the first respondent has passed an order on 17.08.2006. In spite of the order, the writ petitioner has not taken any steps for moving the appropriate authorities or this Court. The writ petitioner was sleeping over his rights, even after an order passed by the District Elementary Educational Officer, on 17.08.2006. The delay of about 7 years from the date of order of the first respondent has not even explained in the affidavit.

5.The learned counsel for the petitioner states that the writ petitioner had submitted a representation on 18.07.2007 and 16.04.2009. Even thereafter, no action was taken by the writ petitioner. However, an order passed by this Court on 02.04.2013 in W.P.No.7142 of 2008 is enclosed in Page No.14 of the typed set of papers. The prayer sought for in that writ petition is for a direction to direct the respondents to sanction the annual increments from the year 2002 in the cadre of middle school Headmaster. The writ petition was allowed by this Court on 02.04.2013. The said writ petition and the prayer sought for therein has covered the period stipulated in the present writ petition. Therefore, the actions taken by the writ petitioner ~~have been covered in the judgment~~ dated 02.04.2013 also has not been explained. This apart, the petitioner has not stated clearly in respect of the implementation made by the authorities pursuant to



the orders passed on 02.04.2013 in W.P(MD)No.7142 of 2008.

6.This being the factum of the case, the present writ petition cannot be entertained both on the ground of laches and on the ground that this Court considered the case of the writ petitioner in respect of annual increment and passed an order on 02.04.2013 and therefore, the present writ petition is devoid of merits. If any grievance exists then, it is left open to the writ petitioner to approach the competent authorities in the manner known to law.

7.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-III)

/True Copy/

Sub Assistant Registrar

To

1. The District Elementary Educational Officer,
Tirunelveli.

2. The Assistant Elementary Educational Officer,
Pappakudi-627 602.
Tirunelveli District.

+ 1 cc TO M/S.C.S.Associates , Advocate in SR No. 50449
+ 1 cc TO Mr.E.V.N.Siva , Advocate in SR No. 50480
+ 1 cc TO The Special Government Pleader in SR No. 50953

am

AE/KK/SAR3/05.03.2018/3P/6C

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