

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.26882 of 2007

S.Ramasamy

... Petitioner

-Vs-

1. The Joint Director of School Education,
(Higher Secondary),
College Road,
Chennai - 600 006.
 2. The Chief Educational Officer,
O/O. Chief Educational Officer,
Nagappattinam.
 3. The Head Master,
A.M.Government Higher Secondary School,
Thirukkuvalai - 610 204.
Nagapattinam District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 1st respondent dated 26.04.2006 issued in Na.Ka.No.114120/W 1(3)/2005 and the Order of the Second Respondent dated 04.10.2005 issued in Na.Ka.No.11416/A2/2005 and quash the same and direct the respondents to grant all the consequential benefits to the petitioner.

For Petitioner :: Mr.R.Muthukannu

For Respondents :: Mr.K.Karthikeyan
Government Advocate

ORDER

Mr.R.Muthukannu, learned counsel appearing for the petitioner, assailing the impugned order refusing the benefit of re-employment of the petitioner on the date of retirement before the end of the academic year namely 30.09.2005, argued that the petitioner, while serving as Physical Director Grade-1, got promotion as Physical Director Grade-2 with effect from 23.10.1998. When he reached the age of superannuation on

30.09.2005, it is a usual procedure in the educational department that when teachers attain the age of superannuation in the middle of the academic year, they are permitted to continue in service till the end of the academic year. Therefore, he submitted a representation to the respondents seeking permission to continue him in service till the end of the academic year namely 31.05.2006. The said representation was also forwarded by the Headmaster of A.M.Government Higher Secondary School, Thirukkuvalai, Nagappattinam District to the Chief Educational Officer, Nagappattinam the second respondent herein for consideration. After the petitioner participated in the special camp for 10 days at Thirumanagkudi from 24.09.2005 to 03.10.2005, he returned back to duty. But to his shock and surprise, he was informed as per the telephonic message of the Chief Educational Officer that his request for re-employment was rejected and he was relieved from duty on 30.09.2005 and his representation was also rejected on 04.10.2005.

2. The learned counsel appearing for the petitioner submitted that as against the order, the petitioner, though filed review before the second respondent, also filed an appeal before the Director of School Education. The same was also rejected by the first respondent by an order dated 26.04.2006. As against the order passed by both the respondents 1 and 2 dated 26.04.2006 and 04.10.2005 respectively, he has come to this Court.

3. Mr.R.Muthukannu, learned counsel appearing for the petitioner, referring to various decisions filed before me, submitted that even in the case of a teacher serving as physical director reaching the age of superannuation in the middle of the academic year, is entitled to get the benefit of re-employment subject to three factors, namely, (a) if the incumbent's conduct is good, (b) if the incumbent has not suffered any departmental proceedings and (c) if the incumbent is able to get medical certificate certifying his fitness to continue, he is entitled to get the benefit of re-employment. Since this has not been considered in the impugned order, the same is liable to go.

4. A detailed counter affidavit has been filed by the Chief Educational Officer, Nagappattinam, the second respondent herein alleging that the petitioner while serving as Headmaster incharge committed various financial irregularities. Since G.O.Ms.No.1643, Education (U2) Department dated 27.10.1988 prescribes certain norms to be followed to give re-employment to the teachers, who retired from service in the middle of the academic year, to continue till the end of the academic year and one such norm shows that the conduct of the teacher should be satisfactory. As Mr.S.Ramasamy, the petitioner herein had not fulfilled the requisite conditions prescribed in G.O.Ms.No.1643,

Education (U2) Department dated 27.10.1988, the proposal submitted by the District Educational Officer, Nagapattinam for his re-employment was considered and rejected, as the conduct of the petitioner was not satisfactory. It also further shows that he has committed financial irregularities while he was serving as Headmaster in charge in the school. Therefore, when the petitioner has not fulfilled the guidelines issued in G.O.Ms.No.1643 dated 27.10.1988 for getting the benefit of re-employment, the impugned order challenged in the writ petition does not call for any interference. Therefore, the writ petition fails and it stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mtl/ss

To

1. The Joint Director of School Education,
(Higher Secondary),
College Road,
Chennai - 600 006.
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O/O. Chief Educational Officer,
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Nagapattinam District.

+1cc to Mr.R.Muthukkannu, Advocate Sr.9531
+1cc to the Government pleader S.10218

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mp[co]
srg 15/03/2019