

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.13203 of 2009

Mrs.K.Sundari

.. Petitioner

-vs-

1. Chief Educational Officer
Panagal Building
Saidapet
Chennai 600 015
2. District Educational Officer (North)
Dr.Ambedkar Higher Secondary
School Campus
Egmore, Chennai 600 008
3. Head Master
Government Higher Secondary School
G.K.M.Colony, Chennai 600 082 .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, to call for the records in Na.Ka.No.144/2008 dated 11.6.2008 passed by the third respondent and quash the same as illegal and improper and regularise the petitioner with all terminal benefits with effect from the date of appointment.

For Petitioner :: Mr.S.Kingston Jerold

For Respondents:: Mr.K.Karthikeyan
Government Advocate

ORDER

The petitioner was appointed as a part-time Sweeper as per RC No.39/89 dated 27.3.89. After sometime, as she fell ill, she went on leave in the month of May, 1989 and also submitted the leave letter with medical certificate. But without considering the leave letter and medical certificate, the Headmaster of the Government Higher Secondary School, Chennai, the third respondent herein did not permit the petitioner to join duty. Even on subsequent request, she was not allotted any work. After making repeated requests to allow her to work, she also

issued a legal notice on 11.6.2008 to the third respondent making a request to permit her to join duty. However, the petitioner has been terminated from service by the impugned order. Therefore, she was advised to come to this Court.

2. A detailed counter affidavit has been filed by the District Educational Officer (North), Dr.Ambedkar Higher Secondary School, Egmore, Chennai. The learned Government Advocate for the respondents submitted that the present writ petition challenging the impugned order has become infructuous. The reason is that when the petitioner herself has admitted that she was appointed only as a part time Sweeper by order dated 27.3.89 bearing RC No.39/89 and she proceeded on leave without any prior permission/leave and thereby absented from duty, she is not entitled to challenge the impugned order. Further, he submitted that the petitioner has issued the legal notice only on 11.6.2008 immediately on receipt of the impugned order, after a gap of almost 19 years from the date of appointment.

3. I also find merits on the said submissions. When the petitioner herself has admitted that for the first time, she gave the legal notice only on 11.6.2008, when she did not even turn up for duty from May, 1989, it is not known how the petitioner can come to this Court. When she was serving as a part time Sweeper, she should have gone on leave only after taking prior permission, which has not been done. Secondly, the writ petition has been filed only in the year 2009 with a huge and unexplained delay of 19 long years. Therefore, the writ petition stands dismissed on the ground of laches. No costs.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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To

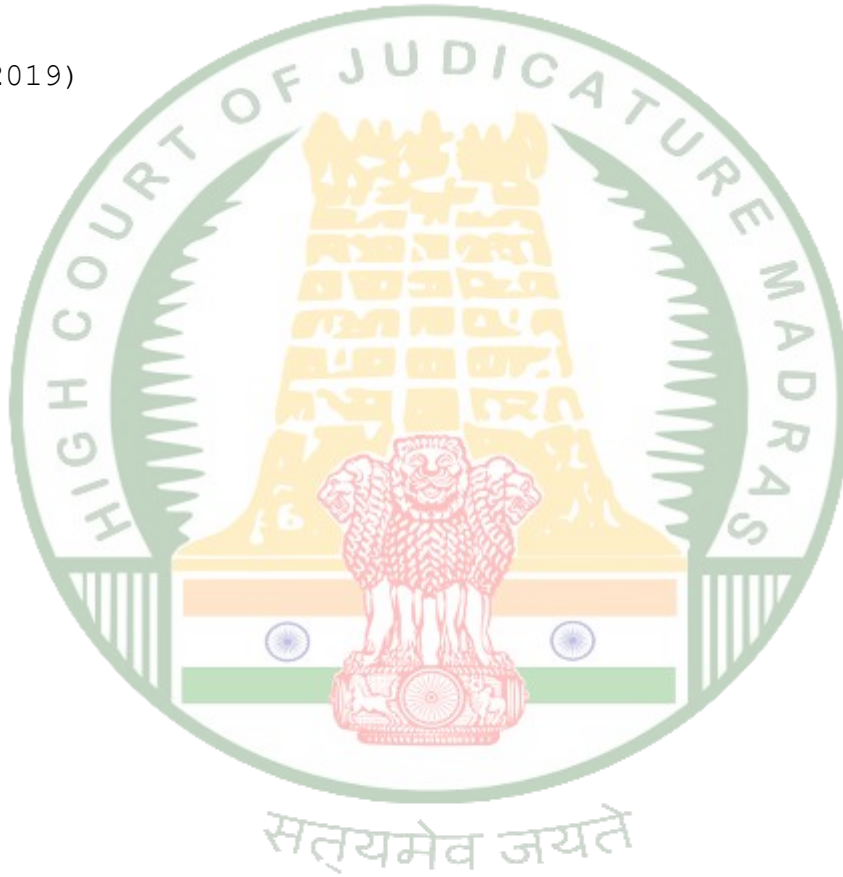
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3. The Head Master
Government Higher Secondary School
G.K.M.Colony
Chennai 600 082

+1 CC to Mr.S.Kingston Jerold, Advocate sr 19898
+1 CC to Govt. Pleader sr 20523

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VSNII (CO)
SP (28/03/2019)



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