

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.A.No.986 of 2017

M. Subramanian ... Appellant/Petitioner

-vs-

1. The Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director of Elementary Education,
College Road,
Chennai - 600 016.
3. The District Elementary Education Officer,
District Elementary Education Office,
Cuddalore Post, Cuddalore District.
4. The Assistant Elementary Education Officer,
Mangalur @ Ramantham,
Thittakudi Taluk Post
Cuddalore. ... Respondents/Respondents

PRAYER:-

Writ Appeal filed under Clause 15 of Letter Patent, praying to set aside the order dated 27.03.2017 made in W.P. No. 7235 of 2017.

W.P.No.7235 of 2017:-

Petition filed under Article 266 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents particularly the 3rd respondent to consider the representation of the petitioner dated 11.11.2016 re-promote him as middle School Head Master with all service seniority monetary benefits consequently refix his pay and allowances in the cadre of selection grade middle school Head Master/ Special Grade Middle School Head Master/ Super grade middle school Head Master and selection grade B.T. Head Master on the recommendations of the Vth pay commission.

For Appellant : Mr.K.Rajendran
For Respondents : Mr.C.Munusamy,
Special Government Pleader

J U D G M E N T

(Judgment of the Court was delivered by K.K. SASIDHARAN, J.)

The learned Single Judge dismissed the Writ Petition only on the ground of delay and laches, notwithstanding the fact that legally and even as per the Department, the Appellant was entitled to promotion to the post of Head Master with effect from 20.06.1971. Feeling aggrieved by the order dismissing the Writ Petition, the Appellant has come up with this intra court appeal.

2. The Appellant functioned as Middle School Head Master from 12.06.1971 to 18.06.1973 and as B.T. Head Master from 04.07.2000 to 30.04.2005. Though he was eligible to be promoted as Middle School Head Master by canceling the order of reversion issued earlier for the period from 19.06.1973 to 06.07.2000, further action was not taken.

3. The District Elementary Education Officer pursuant to the representation submitted by the Appellant, passed an order dated 27.08.2013 indicating that though he was eligible for promotion as Head Master of the School with effect from 20.06.1971 and fixation of pay scale as such, he is not entitled on account of delay.

4. The Appellant appears to have filed O.A. No. 3883 of 1998 before the Tamil Nadu Administrative Tribunal. The Tribunal was pleased to allow the Original Application by order dated 13.02.2002 along with a batch of cases. Subsequently, the Appellant made representation to extend the benefits to him taking into account the order passed in the Original Application. It was only pursuant to the said order, the District Elementary Education Officer, Cuddalore passed the order dated 27.08.2013 negating the request on account of delay.

5. We have perused the proceedings of the District Elementary Education Officer dated 27.08.2013 in which the District Elementary Education Officer has clearly stated that the Appellant is entitled to be promoted as Head Master of the School with effect from 20.06.1971. In short, it was only the delay in making the representation, which made the authorities to reject the claim made by the Appellant. This aspect was not

considered by the learned Single Judge. We are therefore of the view that the Appellant must succeed.

6. We direct the Second Respondent to consider the claim of the Appellant for promotion taking into account the proceedings dated 27.08.2013 on the file of the District Elementary Education Officer. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this judgment. However, we make it clear that though the promotion and the sanction of the relevant pay scale would be counted for fixing the pension, the Appellant would not be entitled to arrears of pension. In short, the monetary benefits of the higher amount of pension would be granted prospectively from the date of this judgment.

7. The intra court appeal is allowed to the extent indicated above. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vjt

To

1. The Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director of Elementary Education,
College Road, Chennai - 600 016.
3. The District Elementary Education Officer,
District Elementary Education Office,
Cuddalore Post, Cuddalore District.
4. The Assistant Elementary Education Officer,
Mangalur @ Ramantham,
Thittakudi Taluk Post, Cuddalore.

+1cc to Mr.K.Rajendran, Advocate, S.R.No.18101

+1cc to the Government Pleader, S.R.No.18912

W.A.No.986 of 2017

PP(CO)
CS/15/03/2019