

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2019

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.A.No.3131 of 2019
and
C.M.P.No.19859 of 2019

The Chief Educational Officer,
Namakkal. ... Appellant

vs.

A.Shanmugasundaram ... Respondent

Prayer: Writ Appeal is filed under Clause 15 of Letters Patent, against the order made in W.P.No.38666 of 2005, dated 05.09.2018.

Prayer in W.P.No.38666 of 2005:

Writ Petition filed under Article 226 of the Constitution of India Praying for issuance of a Writ of Ceritorarified Mandamus calling for the records relating to the order of the respondent dated 5.8.2004 issued in O.Mu.No.5404/A2/2004 and quash the same and further direct the respondent to award selection grade to the petitioner in the post of B.T. Assistant taking into account the service rendered by him as selection grade secondary grade assistant with all consequential benefits.

For Appellant : Mr.K.Karthikeyan
Government Advocate (Education)

JUDGMENT

(Judgment of the Court was made by S.MANIKUMAR, J)

Challenging the order made in W.P.No.38666 of 2005, dated 05.09.2018, wherein the Writ Court has directed the Chief Educational Officer, Namakkal/the appellant herein, to award selection grade to the respondent herein, in the post of B.T. Assistant, taking into account the services rendered by him as Selection Grade and Secondary Grade Assistant, with all consequential benefits, instant writ appeal is filed.

2. Fact that the respondent was originally appointed as Secondary Grade Assistant with effect from 01.01.1971 in an Aided Middle School, before joining the government school, as B.T. Assistant, with effect from 06.12.1990, is not disputed and vide judgment in W.A.(MD).Nos.778 and 779 of 2016, dated 07.09.2017, a Hon'ble Division Bench, ordered as hereunder:-

4.The learned counsel appearing for the appellant contended that the service put in by the respondent herein in the aided private school cannot be taken into account. But the above contention runs counter to the language found in the said G.O. referred in the order of the learned Single Judge. After, going through the entire text of the aforesaid G.O., the learned Single Judge has arrived at the conclusion that service rendered by the teacher under whatever category of management should be taken into account for conferring selection and special grade scales of pay. The reasons assigned by the learned Single Judge is sound.

5.We find no merit in these writ appeals and the same are dismissed. No costs. Consequently, connected miscellaneous petitions are dismissed."

3. Though several grounds have been raised challenging the order of the writ court, applicability of the order made in W.A.(MD).Nos.778 and 779 of 2016, dated 07.09.2017, is not disputed. Decision made by a Coordinate Bench, on identical facts, is binding on us. Few decisions on the above, are reproduced:-

(i) In Lily Thomas vs. Union of India, reported in 2000 (6) SCC 244, the Hon'ble Supreme Court, reiterated the principle that rulings of larger Bench should be followed and those of Coordinate Bench of equal strength not to be different from and must be followed.

(ii) In fact, the Hon'ble Supreme Court has criticised the decisions of Coordinate Benches, which have not followed the earlier judgments by another Coordinate Bench. Hon'ble Supreme Court in Official Liquidator v. Dayanand, reported in (2008) 10 SCC, wherein at paragraph Nos.90 and 91, held thus:-

90. We are distressed to note that despite several pronouncements on the subject, there is substantial increase in the number of cases involving violation of the basics of judicial discipline. The learned Single Judges and Benches of the High Courts refuse to follow and accept the verdict and law laid down by Coordinate and even larger Benches by citing

minor difference in the facts as the ground for doing so. Therefore, it has become necessary to reiterate that disrespect to the constitutional ethos and breach of discipline have grave impact on the credibility of judicial institution and encourages chance litigation. It must be remembered that predictability and certainty is an important hallmark of judicial jurisprudence developed in this country in the last six decades and increase in the frequency of conflicting judgments of the superior judiciary will do incalculable harm to the system inasmuch as the courts at the grass roots will not be able to decide as to which of the judgments lay down the correct law and which one should be followed.

91. We may add that in our constitutional set-up every citizen is under a duty to abide by the Constitution and respect its ideals and institutions. Those who have been entrusted with the task of administering the system and operating various constituents of the State and who take oath to act in accordance with the Constitution and uphold the same, have to set an example by exhibiting total commitment to the constitutional ideals. This principle is required to be observed with greater rigour by the members of judicial fraternity who have been bestowed with the power to adjudicate upon important constitutional and legal issues and protect and preserve rights of the individuals and society as a whole. Discipline is sine qua non for effective and efficient functioning of the judicial system. If the courts command others to act in accordance with the provisions of the Constitution and rule of law, it is not possible to countenance violation of the constitutional principle by those who are required to lay down the law."

4. No contra decision is placed before us. In the light of the above discussion and decisions considered, we do not find any merits in this writ appeal and the same is dismissed. No Costs. Consequently, the connected civil miscellaneous petition, is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To,
The Chief Educational Officer,
Namakkal.

W.A.No.3131 of 2019
and
C.M.P.No.19859 of 2019

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A.SK(30/10/2019)



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