

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.04.2019

Coram

The Honourable DR.JUSTICE ANITA SUMANTH

W.P. No.17046 of 2017

A.Masilamani

....Petitioner

/Vs/

- 1.The State of Tamilnadu
Rep.by the Secretary to Government
Education Departmental
Secretariat
Chennai-600009
 - 2.The Director of School Education
College Road
Chennai-600006
 - 3.The Chief Educational Officer
Salem District, Salem
 - 4.The District Educational Officer
Salem District, Salem
-Respondents

P R A Y E R: WRIT PETITION under Article 226 of the Constitution in the nature of Mandamus to direct the respondents to calculate the petitioner's service from the date of initial appointment on 21.01.1991 and sanction all monetary and service benefits payable to the petitioner enable to fixation of the pension for completion of 27 years of service by the petitioner.

For Petitioner : Mr.M.Rajendiran

For Respondents : Mr.P.Raja GA

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O R D E R

The limited prayer in this writ petition is for a mandamus, directing the respondents to calculate the petitioners' service from the date of initial appointment on 21.01.1991 and sanction of mandatory service benefits payable to him.

2. Mr.Raja, learned Government Advocate relies on a decision of the Supreme Court in the case of Secretary to Gov.Comm. Vs. A.Singamuthu in (Civil Appeal No.3770 of 2017), wherein at paragraph no.18 the Bench has considered the issue of effective date for computing period of continuous service. Paragraph no.18 of the judgment states as follows:

18. It is pertinent to note that even the regularisation of services of part-time employees vide G.O.(Rt.) No. 505 Finance (AA-2) Department dated 14.10.2009 and G.O.(2D) No. 32 Finance (T.A. 2) Department dated 26.03.2010 was effected by extending the benefit of G.O. dated 28.02.2006 only from the date of Government Orders and not from the date of completion of their ten years of service. The Division Bench also failed to take note that G.O. Ms. No. 22 P & AR Dept. dated 28.02.2006 is applicable only to full-time daily wage employees and who had completed ten years of continuous service as on 01.01.2006 and not to part-time employees. As per G.O.(Rt.) No. 84 dated 18.06.2012, the Respondent is entitled to the monetary benefits only from the date of issuance of Government Order regularizing his service that is 18.06.2012. The impugned order of the Division Bench affirming the order of the Single Judge granting benefits to the Respondent from the date of completion of ten years of service is erroneous and the same is liable to be set aside.

3. Per contra, learned counsel for the petitioner relies on a decision of a learned Single Judge of this Court in the case of A.Ganesan Vs. The Government of Tamil Nadu & Others passed on 12.04.2018 in (W.P.No.8781 of 2018). A perusal of the same undertakes that the judgment of the Supreme Court in Singamuthu (supra) case, has not been considered. The judgment in Singamuthu (supra) case appears to settle the issue.

4. As regards the effective date to be taken into consideration in reckoning continuous service, the earlier view that the confirmation of service of the employees after 10 years should form the effective date, has been rejected in the light of the Government Orders dated 14.10.2009 and 26.03.2010 and the position settled that it is only the date of Government order regularising the service that would be taken to by the effective date.

5. In the present case, two regularisation orders have been passed, one dated 18.06.2012 and other 12.10.2012. The representation by the petitioner dated 15.06.2017 will be considered by the 2nd respondent/the Director of School Education in the light of the aforesaid and appropriate orders will be passed after determining the correct date of regularisation after hearing the petitioner within a period of three(3) weeks from the date of conclusion of personal hearing. This writ petition is disposed of in the aforesaid terms. No costs.

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

Ska

To

1.The State of Tamilnadu
Rep.by the Secretary to Government
Education Departmental
Secretariat
Chennai-600009

2.The Director of School Education
College Road
Chennai-600006

3.The Chief Educational Officer
Salem District, Salem

4.The District Educational Officer
Salem District, Salem

+1CC to Mr.M.Rajendiran Advocate SR.NO.36801
+1CC to Govt Pleader in SR.NO.36338

W.P. No.17046 of 2017

SD[CO]

MK:08/06/2019