



W.P.(MD) Nos.13787 of 2012 & 15421 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P. (MD) No.13787 of 2012

and

W.P. (MD) No.15421 of 2013

and

M.P. (MD) No.1 of 2013

T.Chockalingam Pillai

... Petitioner in both W.Ps.

vs.

1.The Government of Tamil Nadu
through its Secretary
Higher Education Department
Fort St.George, Chennai

2.The Director
Directorate of Collegiate Education
College Road, Chennai-006

3.The Joint Director of Collegiate Education
Tirunelveli Region
No.13, 2nd Street, Perumalpuram Post
Tirunelveli-627 007
Tirunelveli District

4.S.T.Hindu College
represented by its Secretary
Nagercoil-620 002
Kanyakumari District

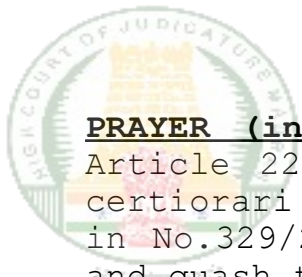
5.The Principal
S.T.Hindu College
Nagercoil-620 002
Kanyakumari District

6.A.Meenakshisundararajan

... Respondents in both W.Ps.

PRAYER (in W.P. (MD) No.13787 of 2012): Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the Respondents No.4 to provide salary to the petitioner from 28.05.2012 continuously during the continuance of the service of the petitioner.

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PRAYER (in W.P.(MD) No.15421 of 2013): Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari to call for the records pertaining to the impugned order in No.329/2013 dated 07.06.2013 on the file of the respondent No.4 and quash the same as illegal with consequential benefits.

For Petitioner : Mr.T.Lajapathi Roy
(in both W.Ps.)

For Respondents : Mr.M.Jeyakumar
(in both W.Ps.) Additional Government Pleader for R1 to R3

Mr.V.Panneerselvam
for M/s.C.S.Associates for R4

No appearance for R5 & R6

C O M M O N O R D E R

The relief sought for in W.P.(MD) No.13787 of 2012 is for a direction to the fourth respondent to provide salary to the writ petitioner from 28.05.2012 continuously during the continuance of his service in the fifth respondent / College.

2. During the pendency of the writ petition, the competent College Committee has passed an order in proceedings, dated 07.06.2013, compulsorily retiring the writ petitioner from service. The order of compulsory retirement is under challenge in W.P.(MD) No.15421 of 2013, wherein, the writ petitioner prayed for quashing of the order of compulsory retirement as well as settlement of the consequential benefits.

3. The impugned order dated 07.06.2013 is passed by the Secretary of S.T.Hindu College, Nagercoil / fourth respondent, pursuant to the resolution of the College Committee. Thus, the said order is an appealable one under the provisions of the Tamil Nadu Private Colleges (Regulation) Act, 1976 (hereinafter, referred to as "the Act").

4. When the writ petitioner is having an efficacious alternative appeal remedy under the provisions of the Act, the same is to be exhausted before approaching the High Court, under Article 226 of the Constitution of India. The disputed facts in relation to the issues raised by the writ petitioner are to be adjudicated by the Appellate Authority with reference to the original documents as well as the evidence adduced. Such an exercise cannot be done by the High Court in writ proceedings. Thus, all such issues are to be adjudicated before the Appellate Authority by the writ petitioner by preferring an appeal under the Act.



5. In view of the fact that the order of compulsory retirement is an appealable order, the writ petitioner is at liberty to approach the competent Appellate Authority by filing an appeal for the redressal of his grievances. On filing such appeal by the writ petitioner, the appellate authority shall not reject the same on the ground of delay, in view of the pendency of the writ petition. If any delay occurred in filing such appeal by the writ petitioner within a period of four weeks from the date of receipt of a copy of this order, the same shall be condoned by the Appellate Authority and an adjudication is to be done, after affording due opportunities to all the parties concerned and accordingly, the appeal shall be decided on merits and in accordance with law.

6. With these observations, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

/TRUE COPY/

Sub Assistant Registrar

To:

- 1.The Secretary,
Higher Education Department,
Government of Tamil Nadu,
Fort St.George, Chennai.
- 2.The Director,
Directorate of Collegiate Education,
College Road, Chennai-006.
- 3.The Joint Director of Collegiate Education,
Tirunelveli Region,
No.13, 2nd Street, Perumalpuram Post,
Tirunelveli-007,
Tirunelveli District.

+1 CC to M/s.SPL GP (SR-84506[F] dated 30/08/2019)
+1 CC to M/s.V.PANNEER SELVAM, Advocate (SR-84546[F] dated 30/08/2019)
+1 CC to M/s.T. LAJAPATHIROY, Advocate (SR-84823[F] dated 03/09/2019)

W.P. (MD) No.13787 of 2012

and

W.P. (MD) No.15421 of 2013

and

M.P. (MD) No.1 of 2013

29.08.2019

krk

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