



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD) .No.11142 of 2013 and 2492 of 2014
and
M.P. (MD) .Nos.1 of 2013 and 1 of 2014

G.Dhanalakshmi .. Petitioner in both petitions

Vs.

1.The Director of Elementary Education,
(Aided Schools) College Road, Chennai -6.

2.The District Elementary Educational Officer,
Pudukottai.

3.The Assistant Elementary Educational Officer,
Arimalam, Pudukottai District.

4.The Secretary,
G.S.S.Primary School, Rayavaram -506,
Pudukottai District. ... Respondents in both
petitions

Prayer in W.P.(MD)No.11142 of 2013: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, to direct the fourth respondent to allow the petitioner to perform her duty as Secondary Grade Teacher in the fourth respondent school as per the order of the third respondent, dated 15.04.2013 in Na.Ka.No.260/A2/2013 and based upon the petitioner's representation dated 02.04.2013 with all consequential monetary benefits and salary.

Prayer in W.P.(MD)No.2492 of 2014: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certioari, to call for the entire records in connction with the impugned order passed by the first respondent in O.Mu.No.013890H4/2013, dated 09.07.2013 and quash the same.

For Petitioner : Mr.K.R.Lakshmanan

For R1 to R3 : Mr.N.Shanmuga Selvan

Additional Government Pleader

For R4 :Mr.N.Balakrishnan

(In both cases)



COMMON ORDER

The petitioner joined as a Secondary Grade Teacher in a sanctioned post in fourth respondent school on 23.03.1998. The fourth respondent school is a private school governed under the provisions of Tamilnadu Recognised Private School Regulation Act.

2.The petitioner states that she was qualified to the post of Headmistress after it fell vacant in the fourth respondent school, pursuant to the death of the erstwhile Headmaster. Though the petitioner expected that she would be promoted to the post of Headmistress in the school, it is stated that the fourth respondent handed over the charges to yet another teacher. It is stated by the petitioner that this act of Management forced her to give Voluntary Retirement from Service / Resignation.

3.It is also stated by the petitioner in the affidavit filed in support of the writ petition that the fourth respondent planned to dismiss the petitioner from service, which was painful to the petitioner and that therefore she was forced to send a letter expressing her willingness to go on Voluntary Retirement from Service from the fourth respondent school. The letter was addressed to the second respondent and it was sent on 31.12.2012. Though it is stated that the Voluntary Retirement letter sent by the petitioner was not voluntary, but due to undue influence and threats, the correspondence exchanged between the parties would give a clear indication that the petitioner submitted the letter for Voluntary Retirement from Service on her own. But it may be stated that her decision was influenced by other circumstances.

4.It is admitted by the petitioner that the petitioner did not send any further communication till three months time was over. However, the respondents also did not send any communication to the petitioner accepting the Voluntary Retirement. After some time, the petitioner sent a letter to the fourth respondent, requesting the management not to forward her Voluntary Retirement letter to the authorities. The petitioner also stated that she was not allowed by the fourth respondent to sign the attendance register.

5.Later, the petitioner made a representation to the Educational Authorities, requesting them to allow her to join duty on 02.04.2013. By a letter, dated 09.04.2013, the second respondent rejected the VRS proposal sent by the fourth respondent. However, the third respondent rejected the plea of the petitioner to allow her to join duty. Thereafter, an enquiry was conducted by the second respondent regarding the petitioner's VRS on 20.05.2013 and the petitioner expressed her unwillingness to go on VRS. Since the petitioner was not allowed to join duty, it is contended by the petitioner that the official respondents are aiding the fourth



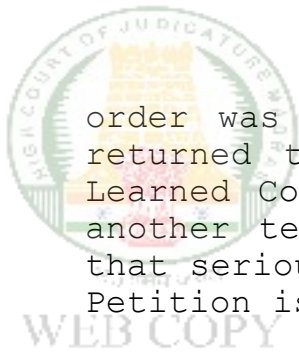
respondent to commit an illegality.

6.The second respondent, namely, the District Elementary Educational Officer, rejected the proposal relating to the petitioner's Voluntary Retirement and directed the Management to reinstate the petitioner by communication, dated 09.04.2013. Subsequently, the third respondent by order, dated 15.04.2013, once again reiterated the order passed by the second respondent, dated 09.04.2013 and directed the fourth respondent to reinstate the petitioner, on the ground that the application for Voluntary Retirement submitted by the petitioner was not legal and it was not sent to the District Elementary Educational Officer. However, the petitioner was not allowed to join duty by the fourth respondent, on the ground that the petitioner had not withdrawn her application for Voluntary Retirement from service within three months and that therefore, the petitioner cannot be permitted to join duty.

7.It was thereafter, the petitioner submitted a representation to the District Elementary Educational Officer on 26.04.2013 to permit her joint duty. Despite a few representations one after another emanated from the petitioner, the respondents did not consider the request of the petitioner. It is in these circumstances, the petitioner has come forward with the writ petition in W.P.(MD)No.11142 of 2013.

8.As against the order passed by the District Elementary Educational Officer, rejecting the proposal relating to the petitioner's voluntary retirement, the fourth respondent preferred an appeal before the first respondent and the first respondent passed an order on 08.07.2013, set aside the order passed by the second respondent giving permission to the fourth respondent to relieve the petitioner from service. Challenging the same, the petitioner has filed W.P.(MD)No.2492 of 2014.

9.In the letter dated 31.12.2012, the petitioner has requested the fourth respondent to accept her voluntary resignation on completion of three years and to relieve her from service with effect from 31.03.2013. The petitioner has agreed to settle all dues. In the counter affidavit, it is stated that the School Committee approved the voluntary retirement notice on 13.03.2013 and the proposal was sent to the second respondent through the third respondent. It is further stated that the petitioner as member of School Committee signed the resolution approving the voluntary retirement. Since the petitioner has not withdrawn her notice within three months, as set out in Rule 56(3)(g) of Fundamental Rules, it is stated that the petitioner was relieved from service. Though the second respondent rejected the proposal to relieve the petitioner on VRS, the fourth respondent has preferred an appeal before the first respondent, who passed an order on 09.07.2013 setting aside the order of the second respondent rejecting the proposal for voluntary retirement of petitioner. The relieving



order was sent to the petitioner on 27.07.2013. However, it was returned to the fourth respondent with an endorsement "Refused". Learned Counsel appearing for the fourth respondent submitted that another teacher has been appointed in the place of petitioner and that serious prejudice will be caused to the Management, if the Writ Petition is allowed.

10.From the reading of whole affidavit, it is evident that the petitioner has approached the Court with unclean hands. Apart from the fact that there are inconsistencies in the pleadings of the petitioner in several representations submitted before the officials, this Court is also able to see that the petitioner has filed the writ petition without any *bona fides*. The fact that the petitioner submitted that letter seeking VRS is not disputed. It was on her own. The petitioner, who is a teacher, is expected to know that she cannot withdraw her letter after three months. The petitioner is a signatory to the resolution of School Committee accepting voluntary retirement of petitioner. Petitioner is estopped from going back after three months. The petitioner has to blame herself, if she had taken a wrong decision. This Court find no merit. Hence, both Writ Petitions are dismissed and the impugned order passed by the first respondent, dated 09.07.2013 is confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

TM/cmr

To

- 1.The Director of Elementary Education,
(Aided Schools) College Road, Chennai -6.
- 2.The District Elementary Educational Officer,
Pudukottai.
- 3.The Assistant Elementary Educational Officer,
Arimalam, Pudukottai District.

+1CC TO M/S.SPECIAL GOVERNMENT PLEADER, SR NO.86541

W.P. (MD).No.11142 of 2013 and 2492 of 2014

16.09.2019

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