



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.19759 of 2019

and

W.M.P (MD)No.16248 of 2019

WEB COPY

J.Bhaskaran

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
School Education Department,
Secretariat, Fort St., George,
Chennai.

2.The Director,
Directorate of School Education,
College Road,
Nungambakkam,
Chennai.

3.Chief Educational officer,
Sivagangai District.

4.District Educational Officer,
Tirupathur, Sivagangai District.

5.Block Educational Officer-II,
Kallal Block, Kallal,
Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order in அமு/668/அரு/19 dated 05.07.2019 returning the petitioner's representation dated 17.06.2019 and quash the same and subsequently directing the respondents to disburse the arrears of salary with special grade increment with effect from January 2019 and consequently directing the respondents to disburse the salary regularly in accordance with the scale of pay fixed by the Government as per the salary policy/Pay commission/existing norms whatsoever prevailing for the time being in force.

For Petitioner : Mr.B.S.Manunath

For Respondents : Mr.M.Karuppasamy,
Government Advocate



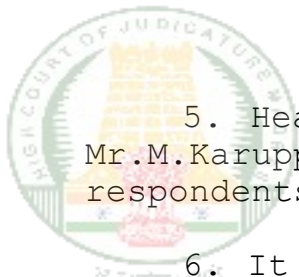
ORDER

The petitioner has filed the present writ petition challenging the order of the fifth respondent in அமு/668/அரு/19 dated 05.07.2019, returning his representation dated 17.06.2019 and quash the same and for a direction to the respondents to disburse the arrears of salary with special grade increment with effect from January, 2019.

2. According to the petitioner, he is working as Secondary Grade Assistant Teacher from 1999. He was transferred to various schools. By the order dated 31.01.2019, he was transferred from Thenkarai Panchayat Union Primary School to Klamadam Panchayat Union Primary School. Challenging the said order, he filed a writ petition in W.P(MD)No.3088 of 2019. When the said writ petition was taken up for hearing, the learned Special Government Pleader submitted that if the petitioner joined duty in the transferred school, no disciplinary proceedings could be initiated against him. Therefore, the petitioner joined duty in the transferred school on 25.03.2019. He had participated in the strike called by JACTO-GEO Union. The petitioner applied for medical leave from 10.02.2019 to 22.03.2019. The said request for medical leave was not accepted by the third respondent. According to the petitioner, during the hearing of the writ petition in W.P(MD)No.3088 of 2019, this Court, orally directed the respondents therein not to withheld the salary of the petitioner for the strike period. In spite of the said oral order, the fifth respondent is not paying salary to the petitioner from February 2019 onwards and therefore, he gave a representation, dated 17.06.2019, to the fifth respondent, who in turn, returned the same on 05.07.2019, stating that the Head Master of the School has not made any recommendation for the same. Therefore, the petitioner has come out with the present writ petition for the aforesaid relief.

3. The learned appearing for the petitioner contended that even if the salary is not paid for a period of medical leave from 10.02.2019 to 22.03.2019, the respondents are liable to pay the salary regularly for the subsequent months for the work done by the petitioner and prayed for allowing the writ petition.

4. The learned Government Advocate appearing for the respondents contended that the petitioner was transferred on 31.01.2019 from Thenkarai Panchayat Union Primary School to Klamadam Panchayat Union Primary School and he has not joined in the transferred place, instead, he filed a writ petition in W.P.(MD)No.3088 of 2019. The petitioner subsequently, participated in the JACTO-GEO Union strike and has not attended the work from 01.02.2019 to 25.03.2019 unauthorizedly. In view of the same, the respondent is not entitled to pay salary to him. He further submitted that the respondents are ready to pay the salary every month on production of the income tax return form.



5. Heard the learned counsel appearing for the petitioner and Mr.M.Karuppasamy, learned Government Advocate appearing for the respondents.

6. It is not in dispute that the salary of the petitioner from February 2019 has not been paid and the same was not denied by the respondents. However, considering the facts and circumstances of the case and in the interest of justice, this Court directs the petitioner to comply with the defects pointed out by the fifth respondent, dated 05.07.2019 and send the same through proper channel to the fifth respondent. On receipt of such representation, the fifth respondent is directed to consider the same and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of the representation. It is needless to say that the respondents shall pay salary to the petitioner from April 2019 onwards regularly.

7. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

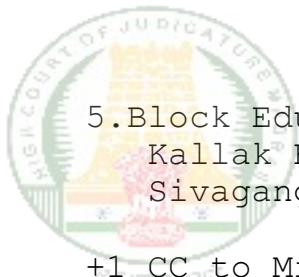
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Sub Assistant Registrar(CS)

Am

To

- 1.The Principal Secretary,
School Education Department,
Secretariat, Fort St., George,
Chennai.
- 2.The Director,
Directorate of School Education,
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- 3.Chief Educational officer,
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- 4.District Educational Officer,
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5.Block Educational Officer-II,
Kallak Block, Kallal,
Sivagangai District.

+1 CC to Mr.K.M.KARUNAKARAN, Advocate (SR-91805[F] dated
15/10/2019)

+1 CC to Spl.GP (SR-91893[F] dated 15/10/2019)

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