



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17.07.2019

CORAM:

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A. (MD) No.426 of 2017

and

C.M.P. (MD) No.3955 of 2017

R.Venkataswamy

... Appellant /Petitioner

vs.

- 1) The Government of India,
By its Secretary,
Ministry of Defence,
New Delhi.
- 2) The Heavy Alloy Penetrator Project,
Government of India,
By its Senior General manager,
Heavy Alloy Penetrator Project,
Ministry of Defence, Trichy - 25.
- 3) Sri Ramakrishana Tapovanam,
Tiruparaithurai,
By its President,
Sri Ramakrishna Tapovanam,
Tiruparaithurai,
Tiruchirappalli District.
- 4) The Director of Matriculation School,
College Road,
Chennai 34

... Respondents/ Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent Act against the order passed by this Court in W.P.(MD) No.16302 of 2012 dated 05.01.2017.

Prayer in WP(MD). 16302/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records of the second respondent letter dated 4.12.2012 and quash the same as illegal and directing the respondent to pay the salary for extension period till 31st may 2013, arrears of salary from 1.1.2007 to 13.11.2009 which is not paid as per pay revision orders of the Government and other pensionary benefits, PF, Gratuity and other benefits (like Exgratia Amount/Bonus Since 2005)



For Appellants : Mr.N.Mohideen Basha

For R1 : Mr.D.Saravanan,
Central Government Standing Counsel

WEB COPY

J U D G M E N T

(Judgment of this Court was made by **K.RAVICHANDRABAABU, J.**)

1. This Writ Appeal is directed against the order passed in W.P.(MD) No.16302 of 2012 dated 05.01.2017.

2. The appellant is the writ petitioner. The challenge made in the writ petition is against the order dated 04.12.2012 wherein and whereby, the extension of service sought for by the writ petitioner beyond attaining the age of 60 years was not granted.

3. The Writ Court by taking note of an order passed in W.P.(MD)No.12110 of 2009, found that the writ petitioner cannot be construed as an employee of the second respondent. Therefore, this Court dismissed the Writ Petition. Now, it is stated before this Court that as against the order passed in W.P.(MD)No.12110 of 2009, a Writ Appeal was filed in W.A.(MD) No.165 of 2017 which came to be dismissed on 21.04.2017. It is further stated that in the review petition filed in the above Writ Appeal in Rev.Appln. (MD) No.S.R.30688 of 2017, an order came to be passed on 16.11.2017 dismissing the Review Application at the S.R. stage however by making the following observations:-

" However, we make it clear that the right of the petitioners, with regard to their employment is concerned, being an independent cause of action, it is left open to the petitioners to adjudicate the same before the appropriate Authority/Forum, and in the event of it is being done, the same shall be considered in accordance with the relevant regulations and the Rules governing the service conditions in Matriculation School.
"

4. The learned counsel appearing for the appellant thus submitted that since the issue involved in this case is also similar to the one before the Division Bench, which considered the review application, same observation can be made in this case also.

5. Learned counsel appearing for the respondent is not having any objections for making such observation.



6. In view of the above facts and circumstances, this Writ Appeal is dismissed, however by making the following observations:-

"It is made clear that the right of the petitioner with regard to his employment, being an independent cause of action,

is left open to be agitated before the appropriate authority / forum and in the event of this being done, the same shall be considered in accordance with relevant regulations and rules governing the service conditions in Matriculation School."

7. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, connected C.M.P.(MD) No.3955 of 2017 is closed.

Sd/-

Assistant Registrar (Cr1.Side)

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1) The Secretary,
Government of India,
Ministry of Defence,
New Delhi.
- 2) The Senior General Manager,
Heavy Alloy Penetrator Project,
Government of India,
Ministry of Defence, Trichy 25.
- 3) The Director of Matriculation School,
College Road, Chennai 34.

+1 CC to Mr.N.MOHIDEEN BASHA, Advocate SR-76501.

+1 CC to Mr.D.SARAVANAN, Advocate SR-75900.

Judgment made in
W.A. (MD) No.426 of 2017

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