

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.02.2020
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
W.P No.2694 of 2020

J.Wesley Prabhu

Petitioner

vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Education Department,
fort St. George, Chennai - 600 009.
2. The Joint Director,
School Education,
DPI Campus,
Chennai - 600 006.
3. The District Educational Officer,
Tiruvannamalai District.
4. The Correspondent,
Danish Mission School,
Somasipadi,
Tiruvannamalai District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to pass orders pursuant to recommendation of third respondent herein in Na.Ka.8436/A4/2018 dated 14.03.2019 in compliance of the orders of this Court W.P.No.4956 of 2017 dated 10.08.2018 by regularizing the services of the petitioner with effect from 01.08.1997 instead of 02.06.2003 by taking into account the orders passed with respect to identically situated individuals by following the orders of the Hon'ble Court in W.A.No.231 of 2006 within time frame to be fixed by this Court.

For Petitioner : Ms.Dakshyani Reddy

For Respondents: Mrs.V.Annalakshmi

Government Advocate for R1 to R3

O R D E R

This writ petition has been filed for issuance of a writ of mandamus directing the 1st respondent to pass orders pursuant to the recommendation made by the 3rd respondent by proceedings dated 14.03.2019.

2.The case of the petitioner is that he was appointed as a Secondary Grade Teacher in the year 1997. G.O.Ms.No.155, dated 03.10.2002 was issued with a direction to send teachers for Child Psychology Training. The petitioner was sent for the training on 02.06.2003. Even thereafter, no approval was granted for the appointment of the petitioner. Therefore, the petitioner filed W.P.No.35858 of 2016 before this Court and this Court directed the respondents to consider the representation made by the petitioner. The claim of the petitioner was rejected. The petitioner again approached this Court and filed W.P.No.4950 of 2017. This Court, by an order dated 10.08.2018, disposed of the writ petition by taking into consideration the orders passed by the Division Bench of this Court in W.A.(MD)No.74 of 2015 & 957 of 2016 dated 21.03.2018. This Court directed the petitioner to approach the Government for redressal and the Government was directed to consider the claim made by the petitioner.

3.Pursuant to the above orders passed by this Court, the petitioner made a representation and the 3rd respondent, by proceedings dated 14.03.2019, has already recommended the case of the petitioner for approval of his appointment. The grievance of the petitioner is that the 1st respondent has not passed any orders till date and thereby the petitioner who is seeking for regularization from the year 1997 onwards, is yet to be considered.

4.Heard Ms.Dakshayani Reddy, learned counsel appearing on behalf of the petitioner and Mrs.V.Annalakshmi, learned Government Advocate appearing on behalf of the respondents 1 to 3.

5.The issue that has been raised in this writ petition was considered by this Court in W.P.No.2426 of 2020 and an order was passed on 03.02.2020. The relevant portions in the order are extracted hereunder:

7. The issue that has been raised in the present Writ Petition is squarely covered by the earlier judgment of this Court in WA (MD). No.231 of 2006 dated 17.08.2006 and W.A.No.956 of 2018 dated 04.07.2018. The relevant portions of the judgment in WA No.956 of 2018 are extracted hereunder:

"4. In such a backdrop, the learned Single Judge having observed in para 23 of the order as under:-

"... Though the said order was passed by the Division Bench of this Court as early as on 29.06.2001, and during that period the petitioner also had been working at the fourth respondent school and a number of persons similarly placed like that of the petitioner had been sent for such training, the petitioner had not been sent for child psychology training for the reasons best known to the official respondents."

5. It is further observed by the learned Single Judge in para 29 of the order thus:-

"This Court finds force with the said submission made by the learned counsel for the petitioner as in this case also the petitioner had been appointed in the year 1998 since then had been continuously working in the fourth respondent school that too in a sanctioned vacancy and after great struggle the petitioner also had completed the child psychology training, hence, she would be entitled to get the approval of her appointment from the date of her original appointment i.e., from 15.4.1998."

6. For the delay on the part of the appellants in sending the first respondent herein for the child psychology training as directed in the judgment of the Division Bench, the first respondent need not be made to suffer. In such view of the matter we do not find any reason to interfere with the order passed by the learned Single Judge. The appellants are directed to comply with the order passed by the learned single Judge, by approving the appointment of the first respondent herein from 15.04.1998 will all service benefits."

8. It is also seen from the records that appointment of similarly placed persons who had approached this Court has been approved from the date of appointment.

9. In the present case, the petitioner had joined the fifth respondent School as a Secondary Grade Teacher on 13.11.1998. The delay in sending the petitioner for Child Psychology Training cannot be put against the petitioner since he was not responsible for the delay. Therefore, as held by the Division Bench, the appointment of the petitioner will have to

be approved with effect from 13.11.1998 onwards.

6. In view of the above order, the petitioner is also entitled for relief claimed by him. The 3rd respondent has already forwarded the recommendation to the 1st respondent and the 1st respondent is directed to pass orders in line with the earlier orders passed by this Court and grant regularization of services to the petitioner with effect from 01.08.1997. The order shall be passed within a period of six weeks from the date of receipt of copy of this order. The petitioner is directed to make a fresh representation to the 1st respondent along with a copy of this order.

7. This writ petition is disposed of with the above directions. No Costs.

Sd/-
Asst. Registrar (CS V)

/true copy/
Sub Asst. Registrar

ssr

To

1. The Secretary,
Education Department,
fort St. George, Chennai - 600 009.
2. The Joint Director,
School Education,
DPI Campus,
Chennai - 600 006.
3. The District Educational Officer,
Tiruvannamalai District.

+1 cc to M/s. Dakshayani Reddy Advocate sr9560

+1 cc to the government pleader sr10014

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