

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2020

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.NO.14212 OF 2007
(O.A.NO.4148 OF 2003)

S.Omprakash

... Petitioner

Vs.

1. The Director/Commissioner,
Adi-Dravidar & Tribal Welfare Department,
Chepauk, Chennai - 600005.

2. District Adi-Dravidar Welfare Officer,
Vellore District.

... Respondents

PRAYER :

Originally this petition has been filed as Original Application No.4148 of 2003 before the Tamil Nadu Administrative Tribunal at Chennai and after abolition of TNAT, petition has been transferred and numbered as W.P.No.14212 of 2007.

Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order of the second respondent herein which is made in Na.Ka.K3.47537/99, dated 11.12.2003 received on 19.12.2003 and set aside the same insofar as the petitioner is concerned.

For Petitioner : Mr.C.Premkumar
for R.Malaichamy

For Respondents: Mr.P.Chinnadurai
Additional Government Pleader

ORDER

This Writ Petition has been filed calling for the records pertaining to the order of the second respondent herein made in Na.Ka.K3.47537/99, dated 11.12.2003 received on 19.12.2003 and set aside the same insofar as the petitioner is concerned.

2. It is averred in the writ petition that the petitioner has filed the Original Application before the Tamil Nadu Administrative Tribunal, Chennai. Subsequently, due to abolition of the Tribunal, this matter was transferred to this Court and renumbered as W.P.No.14212 of 2007.

3. The case of the petitioner is that initially he was appointed as a Lab Assistant and gave 16 years to his service. In the meanwhile, he acquired B.Ed qualification and gave representation to the second respondent for the appointment to the post of B.T.Assistant or Secondary Grade Teacher. Considering his representation, the petitioner was promoted as a Secondary Grade Teacher vide order dated 14.10.1997 and thereby, the petitioner joined the said post on 15.10.1997. Further, the second respondent issued the impugned order dated 11.12.2003, reverting the petitioner to his parent post and also to recover pay and allowances paid to the petitioner.

4. Learned counsel for the petitioner would submit that in a similar writ petition filed in W.P.No.14508 of 2006 dated 07.07.2008, this Court has allowed the writ petition and set aside the order of recovery of excess salary paid to the petitioner therein.

5. Mr.P.Chinnadurai, learned Additional Government Pleader would submit that initially the petitioner worked as a Lab Assistant and during that time he acquired B.Ed qualification, for which he made a request to be promoted as B.T.Assistant or Secondary Grade Teacher, before the second respondent. Since there was no vacancy for the post of B.T.Assistant, he was promoted to the post of Secondary Grade Teacher. Thereafter, since he was not eligible to be promoted as a Secondary Grade Teacher, the earlier order promoting the petitioner was cancelled and impugned order dated 11.12.2003 was issued reverting the petitioner to the post of Lab Assistant and to recover the pay and allowance paid to him.

6. This Court is of the opinion that since in the connected writ petition cited supra, the order of recovery was cancelled and in the present case, the petitioner was promoted from the post of Lab Assistant to the Secondary Grade Teacher, thereafter, he was reverted to his parent post with an order of recovery of pay and allowances for the period he worked as a Secondary Grade Teacher. But, however, he worked as a Secondary Grade Teacher for a period of six years, as per the earlier order of this Court cited supra and the judgment of the hon'ble Supreme Court in Civil Appeal No.11527 of 2014 dated 18.12.2014, the second respondent is not entitled to recover the pay and allowances from the petitioner for the period he worked as a Secondary Grade Teacher.

7. In the result, this Writ Petition stands partly allowed and the impugned order of recovery is set aside but, however, there is no change in the order of reversal, passed by the second respondent. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Director/Commissioner,
Adi-Dravidar & Tribal Welfare Department,
Chepauk, Chennai - 600005.
2. The District Adi-Dravidar Welfare Officer,
Vellore District.

+1cc to R.Malaichamy, Advocate, S.R.No.34303
+1cc to the Government Pleader, S.R.No. 34682

W.P.No.14212 of 2007

EV(CO)
CS/09/12/2020



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