

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2020

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THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.18297 of 2007
(O.A.No.2202 of 2004)

S.Sakthivel

... Petitioner

Vs.

- 1.The Director of Elementary Education,
College Road, Nungambakkam,
Chennai - 600006.
- 2.The District Elementary Education Officer,
Erode, Erode District.
- 3.The Assistant Educational Officer,
Ammapettai, Bhavani TK,
Erode DT. ... Respondents

PRAYER : Originally this application has been filed as Original Application No.2202 of 2004 before the Tamil Nadu Administrative Tribunal at Chennai and after abolition of TNAT, application has been transferred and re-numbered as W.P.No.18297 of 2007.

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondents to claim and disburse the arrears of pay and allowance applicable to the post of Secondary Grade Teacher to the applicant for the service rendered during the period from 31.07.1995 to 24.01.2003 as Secondary Grade Teacher in Panchayat Union Elementary School, Kovilkaradu, Ammapettai Panchayat Union of Erode District.

For Petitioner : Mr.K.Thennan

For Respondents : Mr.P.Raja

Government Advocate

ORDER

This Writ Petition has been filed to direct the respondents to claim and disburse the arrears of pay and allowance applicable to the post of Secondary Grade Teacher to the applicant for the service rendered during the period from 31.07.1995 to 24.01.2003 as Secondary Grade Teacher in Panchayat Union Elementary School, Kovilkaradu, Ammapettai Panchayat Union

of Erode District.

2. It is averred in the writ petition that the petitioner has filed Original Application in O.A.No.2202 of 2004 before the Tamil Nadu Administrative Tribunal, Chennai. Subsequently, due to abolition of the Tribunal, the matter has been transferred before this Court and re-numbered as W.P.No.18297 of 2007.

3. The case of the petitioner is that he was working as a Secondary Grade Assistant, Panchayat Union Elementary School post his terminal. After the service of seven years, he was terminated from the service vide proceedings dated 13.06.1997 stating that he was not possessing 50% marks in the Secondary Grade Teacher Training. Challenging the said order of termination, he filed O.A.No.5599 of 1997 seeking to grant stay in the order of termination and the same was extended but monthly salary was not paid. Thereafter, the original application was dismissed on 26.04.2002 and the second respondent passed the order of permanent termination of the petitioner on 09.01.2003. The petitioner worked from 31.07.1995 to 24.01.2003 but has not received the pay and allowance for the aforesaid period. Hence, the present writ petition.

4. The learned counsel appearing for the petitioner would submit that the similar case has been taken up by this High Court in W.P.No.33240 of 2006 dated 30.04.2009, in which this Court held that though the petitioner is not entitled for regularization but however, he has worked, he is entitled to get the salary and the respondents are directed to pay salary to the petitioner for the period he rendered service otherwise it will amount to forced labour prohibited under Article 23 of the Constitution.

5. The learned Government Advocate appearing for the respondents would submit that on verification, it was found that the petitioner had not secured the minimum marks in the Secondary Grade Teacher Training and was not eligible to hold the post. Since he was wrongly appointed, he was terminated from service and was not entitled to take salary.

6. Admittedly, the petitioner appeared before the Teachers Recruitment Board, Chennai, for the post of Secondary Grade Teachers in July 1995. By communication dated 18.07.1995, the Recruitment Board informed the petitioner of his selection for the post of Secondary Grade Teacher and further stated that the proper authority will issue an order of appointment. Pursuant to the selection made by the Recruitment Board, the District Elementary Educational Officer, Erode, the second respondent herein vide his proceedings dated 27.07.1995 issued an order of appointment to the petitioner in Panchayat Union Elementary

School, Kovilkaradu, Ammapettai Panchayat Union in Erode District, subject to the condition that as his teacher training certificate is from outside the State, his appointment is subject to evaluation of the same. He joined duty as Secondary Grade Teacher on 31.07.1995. Subsequently, vide proceeding dated 13.06.1997, the second respondent herein issued orders stating that since he had not obtained 50% marks in the Secondary Grade Teacher Training and the certificate was not evaluated, he was terminated from service. Aggrieved by the said order of termination dated 13.06.1997, the petitioner filed O.A.No.5599/1997 and the Administrative Tribunal granted interim stay and also directed the respondents to pay the monthly salary till the disposal of the O.A. Subsequently, the said application was dismissed on 26.04.2002 and the petitioner filed the present writ petition which was originally filed as O.A.No.2202 of 2004

7. On a perusal of the facts and circumstances of the case, this Court finds that the petitioner rendered his service from 31.07.1995 to 24.01.2003 and as his appointment was not irregular appointment, the mistake was not only on the part of the petitioner but also on the part of the respondents. Further, following the order passed by this Court in W.P.No.33240 of 2006 dated 30.04.2009, the petitioner is entitled for the salary for the period he worked. Therefore, the second respondent is directed to pay the salary to the petitioner for the period which he had worked i.e. from 31.07.1995 to 24.01.2003 within a period of six weeks from the date of receipt of a copy of this order.

8. In view of the above, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Director of Elementary Education,
College Road, Nungambakkam,
Chennai - 600 006.

2.The District Elementary Officer,
Erode, Erode District.

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3.The Assistant Educational Officer,
Ammapettai, Bhavani TK, Erode DT.

+lcc to Mr.K.Thennan, Advocate, S.R.No. 38091
+lcc to the Government Pleader, S.R.No. 38226

W.P.No.18297 of 2007

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GN(07/01/2021)



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