

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2020

CORAM

THE HONOURABLE MR.JUSTICE P. VELMURUGAN

W.P. No. 9658 of 2005
and
W.M.P. No. 795 of 2009

S. Amalarani

... Petitioner

-vs-

- 1.The Government of Tamil Nadu,
Represented by its Secretary, School Education
Department, Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
College Road,
Chennai - 600 006.
3. The Director of Elementary Education,
College Road,
Chennai - 600 006.
4. The District Educational Officer,
Madurai - 625 002.
5. The Correspondent,
DMR Girls High School,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order of the fourth respondent issued in M.M. No. 5116/B3/03 dated 30.08.2003, quash the same and direct the respondents to pay salary to the petitioner from 18.08.1999 to 03.08.2000, in terms of G.O. Ms. No. 525, School Education Department, dated 29.12.1997 and to count the petitioner's Service for Increment, Selection Grade, Special Grade and for all other benefits.

For Petitioner :Mrs. P.Mahalakshmi

For Respondents :Mr. A.Raja
Government Advocate for R1 to R4
No appearance for R5

ORDER

This Writ Petition has been filed by the petitioner to pay the salary to her for the period from 18.08.1999 to 03.08.2000. The learned counsel appearing for the petitioner would submit that, she is working with the fifth respondent school and subsequently, she was transferred to other school and therefore, the Government has not approved. But once the appointment was approved, even though, the transfer is to the surplus post, she is entitled for salary and since the salary was not paid from 18.08.1999 to 03.08.2020, she filed the present Writ Petition.

2. There is no representation from the fifth respondent. The learned Government Advocate appearing for the first to fourth respondents would submit that, though the petitioner's post was recognized, subsequently, the fifth respondent transferred the petitioner to surplus post which is not approved by the Government. Therefore, the Government is not liable to pay the salary for the period, wherein the petitioner worked in the surplus post and it is for the fifth respondent / Correspondent to pay the salary for the petitioner. The representation of the petitioner has been rejected by the Government and though the rejection order is passed in the year 2000, it was only served to the petitioner at the later point of time. Therefore, the petitioner is necessarily to challenge the rejection order passed by the Government.

3. Therefore, once the Government has passed the final order regarding the rejection of the representation made by the petitioner, the petitioner is to challenge the rejection order. Though the petitioner counsel seeks time to amend the prayer in the Writ Petition, this Court feels that, instead of amending the prayer, the petitioner can challenge the rejection order by way of filing fresh Writ Petition.

4. Accordingly, the Writ Petition is disposed of with liberty to the petitioner to challenge the order of rejection passed by the Government. However, there shall be no order as to

costs. Consequently, connected Miscellaneous Petition also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vji
To

1. The Secretary, School Education
Department, The Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
College Road,
Chennai - 600 006.
3. The Director of Elementary Education,
College Road,
Chennai - 600 006.
4. The District Educational Officer,
Madurai - 625 002.
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+1 cc to the Government Pleader, SR No.40687

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RSV(CO)
NS(29/12/2020)

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