

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.12.2020

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.6934 of 2013

1. V. Kaliyaperumal
2. K.Devanathan

.. Petitioners

(P-2 impleaded vide order of this Court
dated 1.12.20 in WMP No.21638/20)

Vs..

1. The Government of Tamil Nadu,
Rep.by its Secretary,
School Education Department,
St. Fort George, Chennai - 8.
2. The Director of School Education,
College Road,
Chennai - 600 006.
3. The Chief Educational Officer and Chairman,
South Arcot,
District Mobile Medical Inspection Van Committee,
Cuddalore,
Cuddalore District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus,
directing the third respondent to regularize service of the
petitioner with all monetary benefits including pension as per
the order of this Hon'ble Court passed in W.P.No.9432/1999 dated
12.08.2004 as per the petitioner's representation dated
14.11.2012.

For Petitioner : Mr. M. Thamizhavel
For Respondents : Mr. S. Sureshkumar, GA

O R D E R

This writ petition is filed to direct the third respondent to regularise the service of the petitioner with all monetary benefits including pension as per the order of this Court passed in W.P.No.9432 of 1999 dated 12.08.2004 further to the petitioner's representation dated 14.11.2012.

2. The case of the petitioner is that he was appointed as driver for the Mobile Medical Inspection Van by an order dated 31.08.1976, on a consolidated pay of Rs.180/- per month and the petitioner joined duty on 02.09.1976 at Cuddalore under the first respondent therein and subsequently, he was paid Rs.425/- per month from 01.01.1983 to 31.12.1989 and he was paid a consolidated pay of Rs.1200/- per month from 01.01.1990 to 31.01.1996 and Rs.1500/- from 01.02.1996 till the date of his termination on 31.03.1999. It is the case of the petitioner that after putting in service for more than 23 years, the petitioner was suddenly discharged from service by the 2nd respondent, which order was challenged before this Court in W.P. No.9432 of 1999 and vide order dated 12.08.2004, this Court directed the first respondent therein to regularise the service of the petitioner and directed continuance of the service of the petitioner in the post held by him prior to the termination till order is passed regularising his service. Aggrieved by the said order, the first respondent therein filed writ appeal before this Court in W.A.No.1 of 2005 and the same was dismissed and the further review application also ended in dismissal. Though the arrears of salary was paid to the petitioner for the period from 1.4.92 to 30.4.11, however, the material portion of the order pertaining to regularisation has not been complied with. However, the contempt petition was dismissed citing impossibility with the compliance of the order. Though the petitioner has not challenged the order passed in W.A. No.1/05 by filing any SLP, however, has not complied with the order passed in W.P. No.9432/1999 and inspite of representation sent to the respondents, as no order has been passed on the said representation, nor the petitioner having been granted regularisation as per the order of this Court in W.P. No.9432/99, the present writ petition has been filed.

3. The learned counsel for the petitioner submitted that during the pendency of the writ petition, the petitioner has since been missing and every effort taken to locate his whereabouts has not yielded any result and consequent to the same, FIR has been registered in FIR No.534/2013 dated 24.10.2013 on the file of the Cuddalore Town Police Station for 'Man Missing'. It is the further submission of the learned

counsel that the 2nd petitioner having been impleaded as 2nd petitioner, who is the legal heir of the 1st petitioner, who is since missing, this Court may direct the respondents to consider the representation dated 14.11.2012 to regularise the service of the 1st petitioner and pay regular arrears and also to pay the consequential arrears and other of benefits due to the 1st/original petitioner.

4. Learned counsel appearing for the respondents submitted that though the earlier round of litigation till the appellate stage ended in favour of the original petitioner herein, the respondents have paid the arrears of salary due to the petitioner and the question of regularisation could not be met out, which has been explained by the respondents, resulting in the dismissal of the contempt petition. However, without prejudice to their rights, it is submitted by the learned counsel for the respondents that this Court may direct the respondents to dispose of the representation dated 14.11.12 in accordance with law within a particular time frame.

5. The facts in issue are not in dispute. Equally, the success of the original petitioner in the earlier round of litigation upto the appellate stage is not in dispute. However, the contempt petition has been dismissed by this Court only on the premise as to the impossibility with the compliance of the order passed by this Court as was in existence on the said date. However, much water has flown by now and the original petitioner has also submitted a representation which has been received by the respondents. However, no order has been passed on the said representation till date. It is to be pointed out that the respondents are bound to pass orders on receipt of representation which alone would enable the parties to pursue the matter, if otherwise they are aggrieved.

6. In such view of the matter, this Court, without going into the contentions and counter contentions raised by the learned counsel on either side, directs the respondents to consider the representation dated 14.11.12, submitted by the original petitioner for the purpose of regularisation and consider the same and pass appropriate orders on merits and in accordance with law and in terms of order in W.P.No.9432/1999 dated 12.08.2004 within a period of twelve weeks from the date of receipt of the order. If an affirmative order is passed in favour of the original petitioner, the respondents are further directed to settle the arrears and other benefits due to the original petitioner within a further period of eight weeks therefrom.

7. This writ petition is allowed with the aforesaid observations and directions. There shall be no order as to costs

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

AT

To

1. The Secretary to Government
School Education Department,
Government of Tamil Nadu,
St. Fort George, Chennai - 8.
2. The Director of School Education,
College Road,
Chennai - 600 006.
3. The Chief Educational Officer and Chairman,
South Arcot,
District Mobile Medical Inspection Van Committee,
Cuddalore, Cuddalore District.

+1cc to Mr.M.Tamizhavel, Advocate, S.R.No.38965.
+1cc to the Government Pleader, S.R.No.38649.

W.P.No.6934 of 2013

SR(CO)
CSR: 17.03.2021