

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.09.2020

CORAM:

THE HON'BLE MR. JUSTICE V.PARTHIBAN

WP No.11792 of 2020

P.Franklin Sundaranathan

.. Petitioner

Vs

1. Director of School Education,
College Road,
Nungambakkam,
Chennai – 600 006.

2. Director of Elementary Education,
College Road,
Nungambakkam,
Chennai – 600 006.

3. The District Educational Officer,
Thiruvallur.

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents to consider the representation dated 29.11.2019 sent by the petitioner to consider and to give notional appointment to the post of Junior Assistant, with retrospective effect from 09.05.1989, i.e. The date of his regularization to the post of Office Assistant with other consequential promotions and monetary benefits.



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For Petitioner : Mr.S.Krishnamoorthy
for Mr.N.Ramamani

For Respondents : Mr.P.Raja
Government Advocate

ORDER

This matter is taken up through web hearing.

2. The writ petition has been filed seeking for the following prayer:

“for issuance of Writ of Mandamus, directing the respondents to consider the representation dated 29.11.2019 sent by the petitioner to consider and to give notional appointment to the post of Junior Assistant, with retrospective effect from 09.05.1989, i.e. The date of his regularization to the post of Office Assistant with other consequential promotions and monetary benefits.”

3. The case of the petitioner is that he was appointed as Office Assistant on compassionate grounds on 02.05.1989. On 09.05.1989, his services was regularised. According to the petitioner, he had acquired further qualification, such as B.Ed., and M.A., during 1995-96. The

petitioner was also promoted as Lab Assistant on 11.03.2020.

4. The grievance of the petitioner originally was that though vacancy was available in the post of Junior Assistant, he was appointed only as Office Assistant and because of being accommodated in the lower post, the petitioner's further chances for promotion to the higher posts were denied.

5. In the above circumstances, the petitioner appeared to have approached the then Tamil Nadu Administrative Tribunal in OA No.8230 of 1999. After the abolition of the Tamil Nadu Administrative Tribunal, the OA was transferred and renumbered as WP No.42830 of 2006. The said writ petition was disposed of on 26.02.2010, directing the authorities concerned to dispose of the petitioner's representation claiming the relief of appointment as Junior Assistant from the date of his original appointment as Office Assistant on compassionate ground and other consequential benefits.

6. Thereafter, the petitioner is stated to have submitted a

representation on 29.11.2019 and since, no response was forthcoming, he is before this Court.

7. The learned counsel appearing for the petitioner reiterated the above facts and submitted that grave injustice has been done to the petitioner at the time of initial appointment in the year 1989. According to the counsel, though the petitioner was qualified for appointment as Junior Assistant, he was accommodated in the lower post as Office Assistant and thereby, he was denied further promotion to the higher posts on regular intervals. Therefore, he was constrained to approach the learned Administrative Tribunal in 1999 and the case was transferred and was disposed of by this Court on 26.02.2010, with a direction to the respondents to consider the petitioner's claim. However, the claim of the petitioner was not considered, despite the direction by this Court on 26.02.2010.

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8. This Court is unable to appreciate as to how such a stale claim could be entertained, at this distance of time. The cause of action for the petitioner had arisen as early as in the year 1989, when he was originally appointed as Office Assistant, which means the grievance of the

petitioner is more than 30 years old.

9. In any event, the earlier attempt of the petitioner seeking the same relief has ended in WP No.42830 of 2006 being disposed of on 26.02.2010 itself, with liberty to the petitioner to make representation and further direction to the authority concerned to dispose of the same. Nothing has been stated in the affidavit as to whether any representation was made at all in pursuance to the direction of this Court dated 26.02.2010. However, simply a representation is stated to have been submitted on 29.11.2019 and the petitioner now wants this Court to adjudicate his claim.

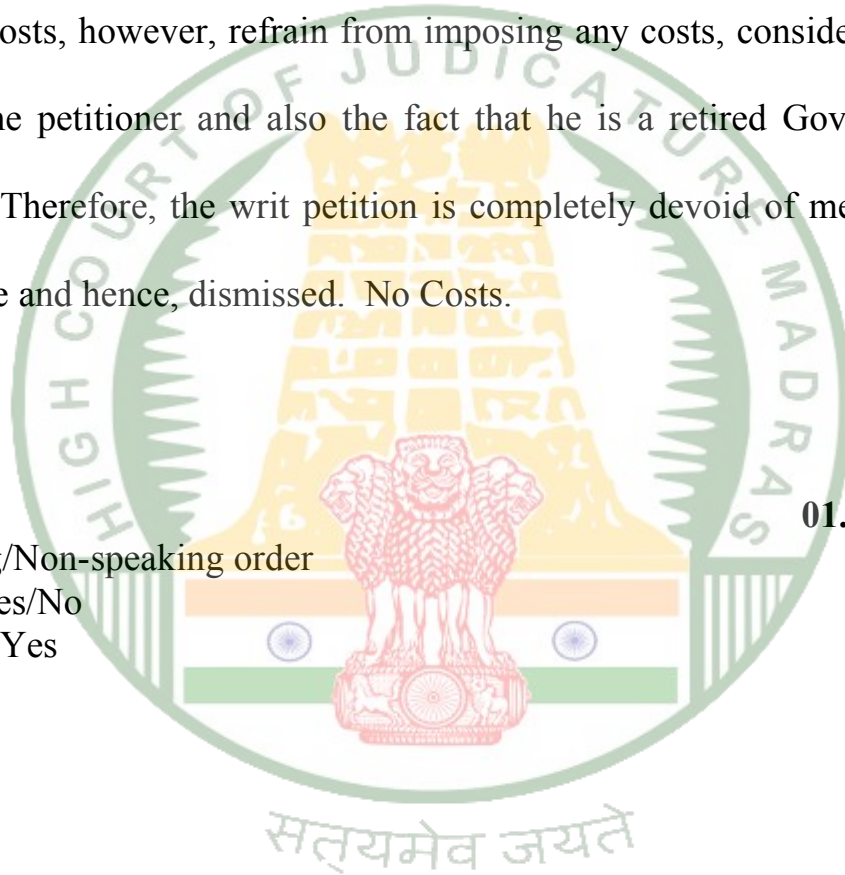
10. From the above narrative, it is very clear that the petitioner who has slept over his rights for decades, cannot invoke the jurisdiction of this Court to grant him any relief, at this distance of time. By seeking an innocuous direction to dispose of the representation dated 29.11.2019, the petitioner is indirectly reviving his 30 years old grievance leisurely, after his retirement from service.

11. From the affidavit, it is indicative that the petitioner is 63 years

old and the petitioner now wants this Court to set back the clock by 30 years and wants service benefits, from the date of his appointment and till now. Such claim of the petitioner now is hopelessly time barred and cannot be entertained even for a second. This Court though intends to impose costs, however, refrain from imposing any costs, considering the age of the petitioner and also the fact that he is a retired Government Servant. Therefore, the writ petition is completely devoid of merits and substance and hence, dismissed. No Costs.

01.09.2020

Speaking/Non-speaking order
Index: Yes/No
Internet: Yes
ars



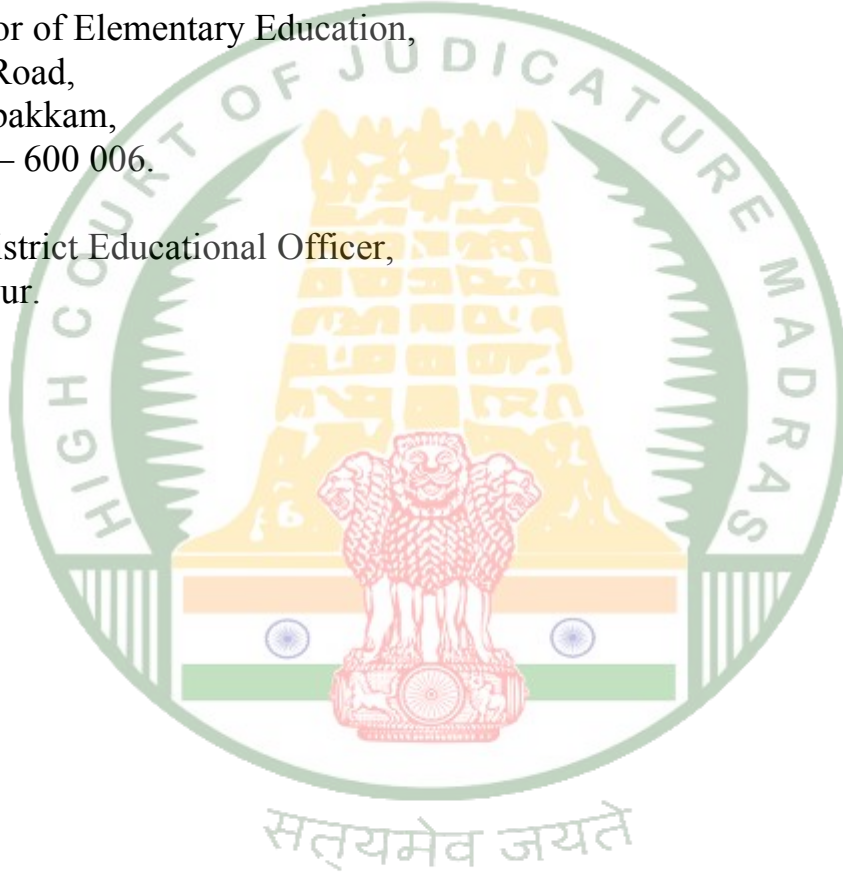
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V.PARTHIBAN, J.,

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