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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.17759 of 2017

M.Jayaraman

... Petitioner

Vs.

1. The Chief Educational Officer,
Pennayar Street, Manjakuppam,
Cuddalore 607 001.
 2. The District Educational Officer,
Pennayar Street, Manjakuppam,
Cuddalore 607 001.
 3. The Correspondent,
St. Joseph's Higher Secondary School,
Manjakuppam,
Cuddalore 607 001.
- ... Respondents

Prayer: This writ petition has been filed under Article 226 of the Constitution of India to issue a writ of Mandamus directing the respondents to enter petitioner's service register from 02.12.1989 and consequently to pay arrears of salary of Rs.4,03,943/- with interest to him.

For Petitioner : Mr.D.Baskar

For Respondents : Ms.P.Kavitha, Gov. Advocate
(for R1 and R2)
: No appearance for R3

O R D E R

This petition has been filed for direction to the respondents to enter the petitioner's service from 02.12.1989 and consequently to pay arrears of salary of Rs.4,03,943/- with interest to him.

2. The case of the petitioner in nutshell is as follows.

The petitioner was appointed as P.G. Assistant in Tamil in the 3rd respondent school on 02.12.1989. The Government has passed an order in G.O.Ms.No.317 dated 01.02.1998 approving the post of P.G.Assistant to the 3rd respondent School. However, the petitioner was not paid



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regular pay to the post of P.G. Assistant from 02.12.1989 to 04.06.1997. The 3rd respondent already taken necessary steps for sanctioning the post and for payment of the salary to the petitioner from the date of his initial appointment till the date of sanctioning the post on 04.06.1997. However, there was no fruitful remedy obtained. Hence this writ petition for payment of regular salary from the date of initial appointment i.e. on 02.12.1989 to 04.06.1997.

3. The learned Government Advocate submitted that the appointment of the petitioner as P.G. Assistant (Tamil) was approved by the Government with effect from 04.06.1997 only, as per G.O.Ms.No.317 Education dated 01.02.1998. According to her, the third respondent school has to take steps seeking relief of sanctioning the post of B.T. Assistants from the date of their initial appointment, but as on today, the third respondent has not sought any remedy before this court. Therefore, this respondent is not responsible for the payment of regular salary for the period from 02.12.1989 to 04.06.1997 and if at all the petitioner has any grievance, he can approach the 3rd respondent to pay the regular salary for the above said period.

4. Heard the learned counsel appearing for the writ petitioner as well as the Government Advocate. I have perused the materials on record.

5. It is an admitted fact that the petitioner was appointed in the 3rd respondent school as B.T. Assistant (Tamil) on 02.12.1989. It is also admitted by both the parties that the post of B.T. Assistant (Tamil) was approved by the Government with effect from 04.06.1997 only, as per G.O.Ms.No.317 Education dated 01.02.1998. The above said order was acted upon and the petitioner got salary as fixed by the Government. However, the 3rd respondent has not made any claim seeking payment of regular scale to the petitioner for the period from 2.12.1989 to 04.06.1997.

6. Now, the petitioner approached this court for grant of regular pay for the period from 02.12.1989 to 04.06.1997, after a lapse of 20 years. The claim made by the petitioner is not maintainable for the simple reason that the Government had sanctioned the post of B.T. Assistant (Tamil), vide G.O.Ms.No.317 dated 01.02.1998, only from 04.06.1997. Neither the writ petitioner, nor the 3rd respondent have not challenged the above said government order, seeking approval of the B.T. Assistant posts from the date of appointment of the teachers. After nearly 20 years, the petitioner has come forward with a claim that regular salary has to be paid from the date of his initial appointment i.e. from 02.12.1989 to 04.06.1997.

7. This court, in an identical matter in <https://hcservices.ecourts.gov.in/hcservices/> W.P.NO.16686 of 2017 dated 12.12.2019, has already passed a



detailed order by rejecting the claim of the writ petitioner therein. In the light of the above order passed by this court, the petitioner is not entitled to the relief as claimed in the writ petition. If at all the petitioner has any grievance, he can seek appropriate remedy if it is otherwise eligible before the 3rd respondent.

8. Accordingly, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

mst

To

1. The Chief Educational Officer,
Pennayar Street, Manjakuppam,
Cuddalore 607 001.
2. The District Educational Officer,
Pennayar Street, Manjakuppam,
Cuddalore 607 001.
3. The Correspondent,
St. Joseph's Higher Secondary School,
Manjakuppam,
Cuddalore 607 001.

+1cc to Mr.D.Baskar, Advocate SR.No.11240

+1cc to Government Pleader SR.No.12414

W.P.No.17759 of 2017

PP (CO)
GMY (14/07/2020)