



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) Nos.5962 of 2015

S.Justin Cladio

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep by its Secretary,
Department of School Education,
Fort St.George,
Chennai-600 009.
2. The Director of Elementary Education,
College Road,
Chennai-600 006.
3. The District Elementary Educational Officer,
Tirunelveli,
Tirunelveli District.
4. The Assistant Elementary Educational
Officer, Nanguneri,
Tirunelveli District.
5. The Correspondent,
R.C Middle School,
Thinaiyurani, Ramakrishnapuram Post,
Nanguneri Union,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the third respondent District Elementary Educational Officer vide proceedings Na.Ka.No.5401/A5/2013(4), dated 19.09.2014 and quash the same and further direct the respondents 1 to 4 herein to reckon the petitioner's services as Secondary Grade Teacher in the fifth respondent school from 22.06.1989 to 05.08.1991 for all practical purposes including fixation of salary and pension benefits with arrears salary.



For Petitioner : Mr.A.Ajith Geethan
For Respondents : Mr.J.Gunaseelan Muthiah
Additional Government Pleader
for R1 to R4

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ORDER

The relief sought for in the present writ petition is to quash the orders dated 19.09.2014 rejecting the claim of the writ petitioner to count the period of service rendered by him as Teachers without approval of appointment or sanctioned post.

2.The fifth respondent School is a recognized and aided private school and also a minority educational institution. The said School appointed three teachers viz., MR.Flarat, Tmt.Santhana Paulal and Tmt.Rajathi. The said School filed a writ petition in W.P.No.502 of 1986 before the Principal Seat of this Court, to sanction of grant-in-aid towards salary of two additional teachers working in the middle School, the case was pending. Initially, the the writ petitioner joined service in R.C.Middle School, Kadakulam as Secondary Grade Teacher. Subsequently, he was transferred to the same Management due to vacancy arose. The respondents approved the transfer of the writ petitioner and disburse the salary from 06.08.1991. However, the respondents have not reckoned the service of the writ petitioner in the 5th respondent School from 22.06.1989 to 05.08.1991. The petitioner has stated that the said period is to be reckoned for the purpose of calculating the qualifying service for paying the terminal and other benefits.

3.The learned Additional Government Pleader objected the said contention by stating that during the said period from 1989 to 1991, the post was not sanctioned and the appointment of the writ petitioner was not approved. In the absence of approval of any appointment in the sanctioned post, the period cannot be taken into account for the purpose of calculating the qualification service. In this regard, this Court elaborately considered the Government Orders and passed order in W.P(MD).No.20326 of 2013, dated 28.02.2018 and the relevant paragraph is extracted hereunder:

"20. As rightly contended by the learned Additional Government Pleader, the Division Bench, in its judgment in W.A.Nos.291 and 292 of 2008, took into account G.O.Ms.No.143, which was a bogus one. Furthermore, the judgment of the Division Bench in S.DEVAKADAKSHAM's case (cited supra) was not brought to the notice of the Division Bench which heard the writ appeals in W.A.Nos.291 and 292 of 2008. The judgment S.DEVAKADAKSHAM's case (cited supra) disposed a batch of writ appeals and the Division Bench considered extensively the provisions of Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and has recorded a finding that the servie rendered



in a non-sanctioned post could not be counted for the purpose of pension and pay fixation. All the Teachers, who were granted benefit based on G.O.Ms.No.18, faced recovery proceedings, based on G.O.Ms.No.314, referred to above. The action based on G.O.Ms.No.314 was upheld by the Division Bench in its judgment in S.DEVAKADAKSHAM's case (cited supra). However, two cases escaped from the net and writ appeals preferred by those two Teachers in W.A.Nos.291 and 292 of 2008 alone were allowed on the sole ground that they were discriminated in the matter of counting the service rendered in the non-sanctioned post, based on the benefit given to a teacher in terms of G.O.Ms.No.18?

10.In view of the judgment, the same claim made out in the writ petition deserves no further consideration and the writ petition is to be dismissed both on the merits and on the ground of laches.

11.Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed."

4.In view of the above, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (A.E)

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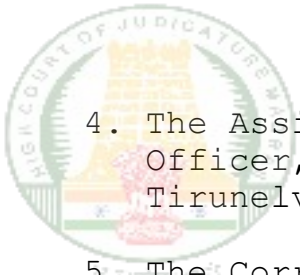
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Sub Assistant Registrar(CS)

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To

1. The Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St.George,
Chennai-600 009.
2. The Director of Elementary Education,
College Road,
Chennai-600 006.
3. The District Elementary Educational Officer,
Tirunelveli,
Tirunelveli District.



4. The Assistant Elementary Educational Officer, Nanguneri, Tirunelveli District.

5. The Correspondent, R.C Middle School, Thinaiyurani, Ramakrishnapuram Post, Nanguneri Union, Tirunelveli District.

+1cc to the SPL GP SR.No.24592.

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