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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2021

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.NO.25956 OF 2010

M.Kanagasabapathy

... Petitioner

-Vs-

1. The Commissioner and Director,
Rural Development and Panchayat Raj,
Panagal Buildings,
Saidapet,
Chennai - 600 015.
2. The District Collector,
Collectorate,
Ramanathapuram District.
3. The District Elementary Education Officer,
Kancheepuram District.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, praying to call for the records in Na.Ka.No.80636/09/C2 dated 22.12.2009 on the file of the First Respondent communicated to the Petitioner by the Third Respondent in proceedings No.Mu.Mu.No.4050/A5/2010, dated 12/06/2010 and quash the same and consequentially direct the First Respondent to repatriate the Petitioner to and rejoin, in the parent department of Panchayat Development Unit, Ramanathapuram.

For Petitioner : Mr.N.Krishnakumar

For Respondents : Mr.C.Harsha Raj
Additional Government Pleader



O R D E R

(Through Video Conference)

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Heard Mr. N.Krishnakumar, Learned Counsel for the Petitioner and Mr.C.Harsha Raj, Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner had been working in the Rural Development Department of the Government of Tamil Nadu from the year 1992 and while he was posted as Assistant in the State Institute for Rural Development, he was selected for the post of B.T. Assistant by Teachers Recruitment Board for the year 2004-2005 by Order in Na.Ka.No.6144/A5/2005 dated 08.11.2006. In terms of Rule 9-B of the Tamil Nadu State and Subordinate Service Rules, the Petitioner was relieved from the Rural Development Department with effect from 28.01.2007 by Order in Na.Ka.No.Va3/87489/2006 dated 24.01.2007 passed by the Second Respondent to join duty in the Education Department. The application made by the Petitioner thereafter by letter dated 23.07.2009 to return to the service in Rural Development Department was rejected by Order in Na.Ka.No.80636/09/C2 dated 22.12.2009 passed by the First Respondent, which is impugned in this Writ Petition.

3. The grievance sought to be ventilated by the Petitioner in this Writ Petition is that as per Rule 9-B of the Tamil Nadu State and Subordinate Service Rules, the Petitioner was entitled to lien in the post held by him in the services of the Rural Development Department, and the First Respondent grossly erred in rejecting the same by quoting that his request had not been made within a period of one year, overlooking the fact that there had not been any communication from the Respondents informing him of such forfeiture.

4. Before proceeding further, it would be necessary to extract Rule 9-B of the Tamil Nadu State and Subordinate Service Rules, which reads as follows:-

"9-B. A member of a service, whenever selected by direct recruitment for appointment in any other service of this Government or in other State Governments Central Government, Universities, or any other quasi-Government organisations, shall hold the service right in the former service for a



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period not exceeding one year only from the date of relief from the former service;

Provided that persons appointed to the services of other State Governments, Central Government, Public Sector undertakings, or Local Bodies, Corporations, Universities or any other quasi-government organisations, shall hold such service right in their former services only if the pay, leave salary and pensionary contributions for the said period of one year are paid by such other State Governments, Central Government, Public Sector undertakings, Local Bodies, Corporations, Universities or any other quasi-government organisations or by the individual concerned."

On a plain reading, it is evident that any request to return to the service of the parent department has to be made within a period of one year from the date of relief. In the present case, the Petitioner had been relieved from service by Order in Na. Ka. No. Va3/ 87489/2006 dated 24.01.2007 passed by the Second Respondent and his request to return to that Department was made on 23.07.2009, which is apparently beyond the stipulated period of one year for which such lien could exist. It is not possible to accept the contention that in the absence of any notice from the Rural Development Department, on the forfeiture of such lien, the Petitioner was entitled to return to the parent department. As already noticed, the lien is available only for one year and by operation of law, it ceases to exist on its lapse. There is nothing that could be inferred from the relevant rule to the effect of requiring any notice to be sent by the parent department to the concerned person to sever the lien in service. In that view of the matter, there does not appear to be any justification for entertaining the claim made by the Petitioner in this Writ Petition.

In fine, the Writ Petition, which lacks merits, is dismissed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vjt/skr



To

1. The Commissioner and Director,
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Chennai - 600 015.
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3. The District Elementary Education Officer,
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+1cc to Mr.N.Krishnakumar, Advocate, S.R.No.59874

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VBM(CO)
PBS/24/11/2021