

IN The HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2021

CORAM:

The HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5411 of 2021

P.Chinniah

... Petitioner

-vs-

- 1.Government of Tamil Nadu,
Rep. by its Secretary to Government,
Education Department,
Fort St. George,
Chennai-600 009.
 - 2.The Director of Collegiate Education,
College Road,
Chennai-600 006.
 - 3.The Principal,
Mannar Duraisingam Government Arts College,
Sivagangai District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the second respondent to dispose of the representation made by the petitioner dated 05.12.2018 to regularise the service of the petitioner from the initial date of appointment dated 22.03.1995 with all consequential service and monetary benefits within a stipulated time fixed by this Court.

For Petitioner : Ms.A.Anusuya

For Respondents: Mr.S.Karthikeibalan,
Government Advocate

O R D E R

This Writ petition is filed, seeking a direction to the second respondent to dispose of the representation made by the petitioner dated 05.12.2018 to regularise his service from the initial date of appointment dated 22.03.1995 with all consequential service and monetary benefits within a stipulated time fixed by this Court.

2. Mr.S.Karthikeibalan, learned Government Advocate takes notice on behalf of the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. It is the case of the petitioner that he was appointed as waterman on daily wages through Employment Exchange in the office of Pulankuruchi Va.Sa.Siva Government, Arts College by proceedings dated 22.03.1995. As there was no vacancy in the said college, he was transferred to the third respondent college. Pursuant to G.O.Ms.No.365, dated 05.11.2007 his service was regularised only from 05.11.2007 and not from his initial date of appointment i.e. on 22.03.1995. But his juniors got the benefit of regularization from the date of appointment pursuant to the Judgments of this Court made in W.P.No.7884 of 2013 dated 19.09.2014 and W.P.No.22587 of 2015, dated 02.09.2016. In this regard, the petitioner has made a representation dated 05.12.2018 to the second respondent. Since there was no progress, the present writ petition has been filed.

4. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the second respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the second respondent herein to consider the representation submitted by the petitioner dated 05.12.2018, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 60 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the second respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 05.12.2018 and this order, to the second respondent forthwith;

v) The second respondent is directed to communicate the decision taken on the representation to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. It is needless to mention, if there is any delay in seeking the relief, it is open to the respondents to consider the same and also deprive the arrears. No costs.

Sd/-

Assistant Registrar (VS-VIII)

//True copy//

Sub Assistant Registrar

rsi

To

1. Government of Tamil Nadu,
Rep. by its Secretary to Government,
Education Department,
Fort St. George,
Chennai-600 009.
2. The Director of Collegiate Education,
College Road,
Chennai-600 006.
3. The Principal,
Mannar Duraisingam Government Arts College,
Sivagangai District.

+1cc to Government Pleader SR.No.14862

W.P.No.5411 of 2021

LM(CO)
GMY(03/05/2021)