

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.4986 of 2015

K.Sivaraja

... Petitioner

Vs

1. The Secretary to Government,
School Education Department,
Fort St.George, Chennai 600 009.
 2. The Director of School Education,
College Road, Chennai - 6.
 3. The District Educational Officer,
Namakkal, Namakkal District.
 4. The Secretary,
Sengunthar Mahajana Higher Secondary School,
Gurusamypalayam & Post,
Namakkal District.
 5. The Secretary,
S.P.B Higher Secondary School,
Pallipalayam & Post,
Namakkal District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 4 to sanction and pay the salary for the period from 02.01.1991 to 29.10.1993 by treating the same as temporary service in terms of the Government Letter No.38077/D2/93-3/Edn/dated 27.10.1993.

For Petitioner : Mr.S.Kamadevan
For R1-R3 : Mr.C.Munusamy, Spl.GP

ORDER

Heard both sides and perused the materials placed before this Court.

2.This writ petition has been filed for a mandamus directing the respondents 1 to 4 to sanction and pay salary to the petitioner for the period from 02.01.1991 to 29.10.1993 by treating the same as temporary service in terms of the Government Letter No.38077/D2/93-3/Edn/dated 27.10.1993.

3.It is the case of the petitioner that he was appointed as Secondary Grade Teacher on 02.01.1991 in the fourth respondent school, but he was terminated from service on 29.10.1993 based on the communication dated 27.10.1993 sent by the first respondent stating that the vacancy in which the petitioner was appointed, is meant to SC candidate, as per roaster, but he belongs to BC category. Subsequently, the petitioner was appointed in the same school on 01.11.1993 in the BC vacancy. Thereafter, he was promoted as BT Assistant on 16.12.2010. While so, the Chief Educational Officer, Namakkal, by proceedings dated 20.12.2013, deployed the petitioner to the fifth respondent school, since there was a fall in the students strength and his post has become surplus in the fourth respondent school.

4.It is the grievance of the petitioner that in the communication dated 27.10.1993, the first respondent, besides directing the fourth respondent school to replace the petitioner by appointing a suitable candidate from SC category, directed them to send a proposal for ratification of the irregular appointment of the petitioner, so as to claim salary, etc. by treating the service rendered by him from 02.01.1991 as temporary service, but the fourth respondent did not show any interest to get ratification and they are keeping the matter pending for a long period. The representation sent by the petitioner in this regard, did not yield any response. Hence, this writ petition.

5.Upon notice, the respondent authorities filed a detailed counter affidavit, which proceeds to state that the fourth respondent school committed a mistake by appointing a Backward Class applicant in the Scheduled Caste Secondary grade vacancy and hence, the Government refused to ratify the irregular appointment and directed the fourth respondent school in a humanitarian consideration to appoint the petitioner in Backward Class vacancy and send proposal to treat the irregular service as temporary service for grant of pay for the period from 02.01.1991 to 29.10.1993; but the fourth respondent school did not forward any proposal to the third respondent to take further action. It is further revealed therein that the fourth respondent school after a long period, by communication in Na.Ka.No.04/2015 dated 23.02.2015, sent proposals to the third respondent to get ratification for the period of service from 02.01.1991 to 29.10.1993, which were returned as the same were

incomplete and without having sufficient particulars and hence, there is no fault on the part of the respondent authorities for not sanctioning pay to the petitioner.

6. That apart, the communication in Na.Ka.No.1915/A7/2015 dated 30.03.2015 sent by the third respondent to the second respondent, a copy of which is enclosed along with the counter affidavit filed by the respondent authorities, would disclose that consequent to the rejection, the fourth respondent resent the proposals enclosing the required documents, to the third respondent, who intturn forwarded the same to the second respondent to get ratification from the Government for the purpose of pay etc.. by treating the period from 02.01.1991 to 29.10.1993 as temporary service. Now, the said proposals are pending ratification by the Government.

7. Such being the actual position, this Court directs the respondents 1 and 2 to consider the proposals submitted by the fourth respondent School and forwarded by the third respondent, if not already considered, and pass appropriate orders, in the light of the Government letter No.38077/D2/93-3/Edn dated 27.10.1993. Such an exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

8. With the aforesaid direction, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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+1 cc to The Government Pleader Sr.No. 5564

W.P.No.4986 of 2015

GMI (CO)
RMP (04/03/2021)



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