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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.44648 of 2016
and
W.M.P.No.38441 of 2016

R.Sivakumar

...Petitioner

-Vs-

1.The District Collector,
Office of the District Collector,
Collector of Nilgiris and President,
Board of Management, Breeks School,
Udhagamandalam, Nilgiris - 643 001.

2.The Chief Educational Officer &
Vice President,
Board of Management, Breeks School,
Udhagamandalam, Nilgiris - 643 001.

3.Inspector of Anglo Indian Schools,
Chennai - 600 006.

4.Headmaster and Correspondent,
Breeks Memorial Anglo India
Higher Secondary School,
Ootachamund.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the 1st respondent in Na.Ka.No.1/32034/2015 dated 20.08.2016 and quash the same and consequently direct the respondents to fix the petitioner's regular time scale of pay w.e.f 01.06.2006 instead of 01.09.2008 and thereby to grant the arrears of difference pay from 01.06.2006 to till date.

For Petitioner : Dr.R.Gouri

For Respondents : Ms.P.Rajarajeswari,
Government Advocate



ORDER

The petitioner herein was originally inducted on consolidated salary as Junior Grade Post Graduate Assistant from 31.08.2005 onwards. Such an absorption was owing to the financial constraints in the state vacancies and pursuant to the Government Order in G.O.Ms.No.125, School Education (X2) Department, dated 12.11.2003. Thereafter, a decision was made to regularize such teachers, who were earlier appointed on consolidated salaries, through G.O.(RT).No.99, School Education Department, dated 27.06.2006, whereby it was specifically ordered that, from the year 2003-2004 onwards, the Junior Grade Post Graduate Assistants, who were appointed on consolidated wages through contracts, should be regularized from 01.06.2006 onwards. However, the authorities had chosen to regularize the petitioner herein from 23.12.2008 with effect from 01.09.2008.

2. The learned counsel for the petitioner would submit that in view of G.O.(RT).No.99, dated 27.06.2006, regularization ought to have been made from 01.06.2006, as ordered therein.

3. Per contra, the learned Government Advocate would submit that the proceedings issued by the fourth respondent School was only to regularize the petitioner from 01.09.2008 and accordingly, there is no infirmity in the regularization date of the petitioner.

4. The reason assigned in the impugned order is that since the petitioner was on consolidated salary between the year 2005 and 2008, his regularization cannot be made with effect from 2006 and therefore, his request in this regard was rejected. While such a rejection was made, there was no reference in G.O.(RT).No.99, dated 27.06.2006, which is the regulation governing regularization of teachers who are similar to that of the petitioner herein. When G.O.(RT).No.99, dated 27.06.2006 stipulates that the earlier ban for regularization is lifted and the teachers, who were appointed on consolidated basis, were directed to be regularized from 01.06.2006 onwards, there is absolutely no justification on the part of the authorities to refer to the proposal submitted by the fourth respondent School and thereby give effect to the regularization from 01.09.2008 onwards. In this background, the action of the authorities in rejecting the petitioner's request cannot be sustained.

5. It is seen that the order of regularization was passed in the year 2008 and the present writ petition was filed in the



year 2016. In normal circumstances, this Court would have taken such laches on the part of the petitioner to be detrimental for positive orders in this writ petition. However, it is brought to the notice of this Court that in the case of a similarly placed teacher, namely M.Suresh, the educational authorities had chosen to regularize the services of that teacher with effect from 01.06.2006, in accordance with G.O.(RT).No.99, dated 27.06.2006. While that being so, depriving the petitioner of the benefits of regularization with effect from 01.06.2006, may amount to discrimination and may also have far-reaching consequences, affecting the regular services of the petitioner. In this background, the laches on the part of the petitioner is hereby condoned.

6. In the light of the above observations and in view of the Government Order in G.O.(RT).No.99, dated 27.06.2006, the impugned order dated 20.08.2016 passed by the first respondent herein, is quashed. Consequently, there shall be a direction to the first respondent herein to pass appropriate orders by giving effect to the petitioner's regularization from 01.06.2006 onwards and thereby extend all the service benefits including monetary benefits to the petitioner. The first respondent shall endeavour to pass such orders, atleast within a period of four (4) weeks from the date of receipt of a copy of this order. The Writ Petition stands allowed, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VII)

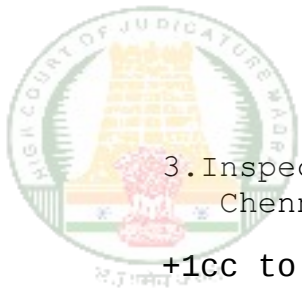
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Sub Assistant Registrar

hvk

To:

- 1.The District Collector,
Office of the District Collector,
Collector of Nilgiris and President,
Board of Management, Breeks School,
Udhagamandalam, Nilgiris - 643 001.
- 2.The Chief Educational Officer &
Vice President,
Board of Management, Breeks School,
Udhagamandalam, Nilgiris - 643 001.



3. Inspector of Anglo Indian Schools,
Chennai - 600 006.

+1cc to the Government Pleader SR.No.69762

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SS(CO)
GN(11/01/2022)