



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 10.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P(MD)No.226 of 2020

and

W.M.P(MD)Nos.139 of 2020 and 11526 of 2021

WEB COPY

S.Sankar

: Petitioner

Vs.

1.The Chief Educational Officer,
Office of the Chief Educational Officer,
Tirunelveli,
Tirunelveli District.

2.The District Educational Officer,
Office of the District Educational Officer,
Tenkasi,
Tenkasi District.

3.The Headmaster,
Avvaiyar Government Girls Higher Secondary School,
Pavoor Chatram - 627 808,
Tenkasi (Taluk),
Tenkasi District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ certiorarified mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.9826/Aa3/2019, dated 31.12.2019 on the file of the respondent No.1 and the consequential relieving order dated 30.12.2019 on the file of the respondent No.3 and quash the same as illegal and consequently to direct the respondents to permit the petitioner to continue to work as B.T. Assistant (Science) for the period from 01.01.2020 to 31.05.2020 with all monetary and service benefits within the time stipulated by this Court.

For Petitioner : Mr.S.Louis

For Respondents : Mr.R.Sureshkumar,
Government Advocate(civil)

ORDER

This writ petition is filed seeking issuance of a writ certiorarified mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.9826/Aa3/2019, dated 30.12.2019 on the file of the respondent No.1 and the consequential relieving order dated 31.12.2019 on the file of the respondent No.3 and quash the



same as illegal and consequently to direct the respondents to permit the petitioner to continue to work as B.T. Assistant (Science) for the period from 01.01.2020 to 31.05.2020 with all monetary and service benefits within the time stipulated by this Court.

2.The learned Counsel for the petitioner submits that the petitioner was appointed as B.T.Assistant (Science) on 02.01.2009 and as such he was working in the third respondent school from 12.07.2012. While so, the petitioner's superannuation fell on 31.12.2019. Therefore the petitioner submitted application dated 04.12.20219, seeking extension of his services till the end of the academic year, i.e.,31.05.2020. However, his request was rejected by the second respondent vide proceedings Na.Ka.No.9826/Aa3/2019 dated 30.12.2019. Therefore, challenging the same the petitioner is before this Court.

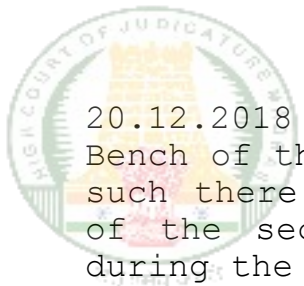
3.The learned Government Advocate (Civil) appearing for the respondent submitted that the petitioner was due to retire on 31.12.2019 and his request for extension of service till 31.05.2020 was rejected by the second respondent vide his proceedings dated 30.12.2019. He further submits that the request of the petitioner has been rejected in view of the Government Order in G.O.Ms.No.261 School Education (pa.Ka.5(2) Department dated 20.12.2018 that whenever there is surplus teacher available in the district, there should not be any extension of service beyond the date of superannuation. He has also placed reliance on the decision of a Hon'ble Division Bench of this Court in W.P.(MD)No.13421 of 2016 dated 18.01.2018.

4.Heard the learned Counsel on either side and perused the materials placed on record.

5.It is seen that the petitioner was appointed as B.T.Assistant and his date of superannuation is 31.12.2019. A perusal of the impugned proceedings shows that there were 418 surplus teachers during the month of December 2019. The Government Order in G.O.Ms.No.261 School Education (pa.Ka.5(2) Department dated 20.12.2018 states that there cannot be any extension of service, where there are surplus teachers available.

6.A Division Bench of this Court in W.P.(MD)No.13421 of 2016 dated 18.01.2018 held that the purpose of granting re-employment to the teachers, who retire in the middle of the academic year is to benefit the students and though certain Government Orders issued in this connection, the same cannot perversely applied and when there are surplus teachers, the question of extension of service does not arise at all.

7.It is clear that when there are surplus teachers available in a particular district, extension of service cannot be granted in



20.12.2018 and in view of the decision of the Hon'ble Division Bench of this Court in W.P.(MD)No.13421 of 2016 dated 18.01.2018. As such there is no reason to interfere with the impugned proceedings of the second respondent, since there were 418 surplus teachers during the relevant period.

8. In the light of the above discussion, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dsk

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Chief Educational Officer,
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Tirunelveli District.
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+1 CC to M/s.SPL.GP (SR-34086[F] dated 11/11/2021)

W.P(MD)No.226 of 2020
10.11.2021

PS (CO)

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SB(29.11.2021) SP 5C