



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2021

CORAM:

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)NO.502 OF 2012

and

M.P(MD)No.2 of 2012

- 1.The Director of Elementary Education,
Chennai-6.
 - 2.The District Elementary Educational Officer,
Tuticorin District,
Tuticorin.
 - 3.The Director of Teacher Education,
Research and Training,
Chennai -6.
 - 4.The Principal,
District Institute of Education and Training,
Vanaramutti,
Tuticorin District.
- ... Appellants/
Respondents 1,2,4 and 5

.vs.

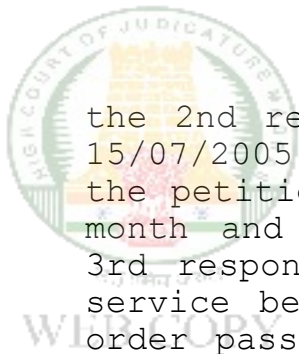
- 1.A.Susai Michael
 - 2.The Correspondent,
R.C.Primary Schools,
Tharuvaikulam,
Tuticorin District.
- ... Respondents/
Petitioner and Third Respondent.

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act praying this Court to set aside the order passed by this Court in W.P(MD)No.722 of 2006 and W.P.M.P(MD)No.796 of 2006, dated 05.07.2011.

Prayer in WP(MD). 722/ 2006 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by

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the 2nd respondent in his proceedings Na.ka.No. 8802/a4/2002 dated 15/07/2005 and Quash the same, and direct the respondents to sponsor the petitioner for the condensed course in Child Psychology for one month and appoint him as Headmaster of Elementary school in the 3rd respondent Management school and confer all the consequential service benefits giving notional appointment from the date of the order passed by the Government in G.O.Ms.No. 155, School Education Department, dated 03/10/2002, so as to enable the petitioner to get minimum pension.

For Appellants :Mrs.S.Srimathy
Special Government Pleader

For Respondent-1 :Mr.V.Panneerselvam

For Respondent-2 :Mr.V.John Kennedy
for M/s.Father Xavier Associates

JUDGMENT

[Judgment of the Court was made by **PUSHPA SATHYANARAYANA, J.**]

This Writ Appeal is directed against the order passed in W.P (MD)No.722 of 2006, dated 5.7.2011, wherein, the first respondent/Writ Petitioner has challenged the order passed by the second appellant in his proceedings in Na.Ka.No.8802/a4/2002, dated 15.7.2005.

2.The relevant facts which are necessary for the filing of the appeal is as follows:

The first respondent herein/Writ Petitioner was appointed as Headmaster in the second respondent/School on 31.05.1997 w.e.f 2.6.1997. The first respondent had five years of teaching experience. He was qualified with B.Sc., M.A., B.Ed. As he did not have the Secondary Grade Training, placing reliance on G.O.Ms.No.559, Education Department, dated 11.7.1995, his appointment was not approved. As the approval was rejected, he was terminated from service and hence, the first respondent/Writ Petitioner had filed a Writ Petition in W.P.No.3503 of 2000, which was dismissed, against which, a Writ Appeal was filed in W.A.No.1184 of 2000 which was also confirmed upholding the validity of the above said Government Order. While dismissing the Writ Appeal, an undertaking was given before the Bench that the Government had issued orders in G.O.Ms.No.155, School Education(D2) Department, dated 3.10.2002 stating that all the persons who were appointed before 19.5.1998 will be approved giving one month training in Child Psychology Course. Accordingly, the second appellant was requested to sponsor the Writ Petitioner for the



said Course in Child Psychology as per the above Government Order. The Writ Petitioner had also made a representation to that effect on 9.5.2005. However, the same was refused by the second appellant on 15.7.2005, which is impugned in W.P.No.722 of 2006.

3.The learned counsel for the first respondent contended that instead of recommending his name to the District Institute of Education and Training, his name was sent to the Director of Elementary Educational Officer. Therefore, the Petitioner could not get training in the Child Psychology Course as required for the post of Secondary Grade Teachers. Since there was no qualification as per the requirement, he was relieved from service on 28.2.2000.

4.The learned Single Judge held that a person cannot be denied the salary for the service rendered by him, especially, when the appointment of the Writ Petitioner cannot be said to be *per se* void, as similarly situated persons were sent for the training and they were absorbed, after passing of the Child Psychology Course. Therefore, the Writ Petition was partly allowed directing the appellants herein to pay the salary to the Petitioner from 2.6.1997 to 28.2.2000. Aggrieved by the same, the official respondents have preferred this Writ Appeal.

5.The Government had specifically stated that the Writ Petitioner's services were availed by the second respondent/School from 2.6.1997 to 28.2.2000. The approval was not granted by the appellants for the reason that the Writ Petitioner did not have undergone the one month Course in Child Psychology. Since he did not have the required qualification, he was terminated from service. However, the fact remains that the first respondent/Writ Petitioner had served in the second respondent/School between 2.6.1997 and 28.2.2000.

6.In the light of the above facts, it would be appropriate to direct the second respondent/ School to pay the salary to the Writ Petitioner for the period from 2.6.1997 to 28.2.2000. Already the learned Single Judge had awarded 6% interest per annum on the said amount from the date on which it became due till the date of realisation.

7.Accordingly, there will be a direction to the second respondent/School to pay the salary to the first respondent/Writ Petitioner as indicated above with interest at the rate of 6% per annum from the date on which it became due till the date of realization. It is held that the appellants 1 to 4 are not liable to pay the salary to the Writ Petitioner. The learned counsel for the first respondent requested that the said period of his service from 2.6.1997 to 28.2.2000 may be considered for the pensionary benefits. It is open to him to make appropriate representation to the authorities concerned in this regard.



8. Accordingly, the Writ Appeal is allowed to the extent as indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

VSN

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

The Correspondent,
R.C. Primary Schools,
Tharuvaikulam,
Tuticorin District.

+1 CC to M/s.FATHER XAVIER ASSOCIATES(SR-9853[F] dated 10/03/2021)

+1CC to THE SPECIAL GOVERNMENT PLEADER(SR-10223[F] dated 10/03/2021)

+1 CC to Mr.V.PANNEER SELVAM, Advocate (SR-10456[F] dated 11/03/2021)

JUDGMENT MADE IN
W.A(MD)NO.502 OF 2012 and
M.P (MD) No.2 of 2012
09.03.2021

MJ(CO)
SRS (23/03/2021) 4P : 5C