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W.P(MD)No.14263 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.14263 of 2019

and

W.M.P(MD)No.10711 of 2019

S.Kalaiselvi

... Petitioner

vs.

1.The Director of Elementary Education,
DPI Campus,
Collegiate Road,
Chennai - 6.

2.The District Educational Officer,
Sankarankovil Educational District,
Sankarankovil,
Tirunelveli District.

3.The Block Development Officer,
Sankarankovil Range,
Sankarankovil,
Tirunelveli District.

4.The Secretary,
Hindu Middle School,
Ariyanayagipuram - 627 862,
Kadayanallur Taluk,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to assign TPF Account number, regularize the leave period, sanction the annual increment and to rectify the wrong entry in the Service Register and consequential monetary benefit and continue to pay the monthly salary based on the petitioner's representations, dated 11.03.2019 and 13.05.2019.

For Petitioner : Mr.S.Kumar

For RR 1 to 3 : Mr.P.Subbaraj
Government Advocate

For R - 4 : Mr.V.Meenakshi Sundaram
for Mr.D.Nallathambi



ORDER

The petitioner has filed the present Writ Petition, to direct the respondents to assign TPF Account number, regularize the leave period, sanction the annual increment and to rectify the wrong entry in the Service Register and consequential monetary benefit and continue to pay the monthly salary, based on her representations, dated 11.03.2019 and 13.05.2019.

2. According to the petitioner, she was appointed as Secondary Grade Teacher in the fourth respondent School. The Correspondent of the School is the father-in-law of the petitioner. Due to family dispute, the fourth respondent prevented the petitioner from signing the attendance register several times and recorded in her Service Register that she went on leave on loss of pay. Subsequently, the fourth respondent terminated the petitioner. The said order of termination was not approved by the second respondent. After the order of this Court in W.P.No.7144 of 2005, dated 02.03.2005, the fourth respondent has not paid salary to the petitioner from 01.03.2003 to 14.04.2005. The petitioner made several representations to the District Elementary Educational Officer. Though the petitioner was working from 23.04.2001, she was not assigned Teachers Provident Fund A/C number, annual increment from 01.04.2002 and she was not paid the salary for the maternity leave period and her salary was not revised as per 6th and 7th Pay Commission. The fourth respondent has also not recorded her Higher studies in her Service Register. The petitioner made various representations from 13.11.2005 to 01.11.2017. The fourth respondent Management has not taken any steps to redress her pending grievances. The father-in-law of the petitioner transferred the Management to the present Secretary. The present Secretary also has not taken any steps to redress her pending grievances. The petitioner gave a representation on 11.03.2019 to the authorities and has come out with the present Writ Petition.

3. The second respondent filed counter-affidavit.

4. Mr. K.S. Selva Ganesan, learned Government Advocate appearing for the respondents 1 to 3 submitted that it is for the fourth respondent to rectify the grievance of the petitioner. The fourth respondent has failed to send the proposal in respect of the grievance of the petitioner. In spite of the repeated direction to the fourth respondent, the fourth respondent has not complied with. Hence, the third respondent issued a communication, dated 24.05.2019 asking the fourth respondent as to why the fourth respondent School should not come under direct payment. The Department is also contemplating action against the School under direct payment.



5.Mr.V.Meenakshi Sundaram, learned counsel appearing for the fourth respondent submitted that there was some dispute between the petitioner and the then Correspondent of the School. Now, the new Management will forward the proposal, provided the petitioner to co-operate with the Management.

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6.In reply, the learned counsel appearing for the petitioner submitted that the petitioner will provide all the documents to the fourth respondent and a direction may be issued to the fourth respondent to forward the proposal to the respondents 1 to 3.

7.Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

8.From the materials available on record, it is seen that initially, the then Correspondent, who is the father-in-law of the petitioner, has taken some action due to family dispute against the petitioner. He also terminated the petitioner from service and failed to reinstate the petitioner, inspite of the order of the third respondent. Only when this Court in W.P.No.7144 of 2005, filed by the petitioner, vide order dated 02.03.2005, directed the respondents 1 to 3 therein to implement the order of the second respondent or in alternate, bringing the School under direct payment in terms of G.O.Ms.1664, dated 04.09.1978, the fourth respondent Management reinstated the petitioner into service on 15.04.2005, but she was not paid salary from 01.03.2003 to 14.04.2005.

9.Further, from the materials available on record, it is seen that inspite of the order of the second respondent, the fourth respondent School is not taking any steps to forward the proposal to assign the Teachers Provident Fund A/C number and annual increment from 01.04.2002. Further, the petitioner was not paid salary from November, 2017.

10.From the counter-affidavit filed by the second respondent, it is seen that the third respondent has given certain direction to the fourth respondent and informed the fourth respondent that if the fourth respondent fails to comply the direction issued by the second respondent, the School will be brought under direct payment system.

11.From the averments in the affidavit as well as the counter-affidavit filed by the second respondent, the then fourth respondent has acted inimically towards the petitioner and has deliberately did not take any steps to redress the grievance of the petitioner. Having reinstated the petitioner into service and to extract work, she is entitled to salary and other benefits.

12.Now, Mr.V.Meenakshi Sundaram, learned counsel appearing for the fourth respondent submitted that due to some dispute, the



Service Register of the petitioner is not in order and if the petitioner co-operates, they will re-construct the same within a period of eight weeks and submit the proposal to the respondents 1 to 3.

13.The learned counsel appearing for the petitioner also accepted that the petitioner will co-operate for re-constructing the Service Register and other records for sending the proposal.

14.Considering the above materials and submissions of the learned counsel for the petitioner, the learned Government Advocate appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent, the fourth respondent is directed to send the proposal to the respondents 1 to 3 within a period of eight weeks from the date of receipt of a copy of this order, for getting all the monetary benefits as claimed by the petitioner in her representation, dated 28.12.2018 and on receipt of the proposal submitted by the fourth respondent, the respondents 1 to 3 are directed to pass orders on the proposal within a period of two weeks thereafter. If the fourth respondent fails to send the proposal within the time limit granted by this Court, the third respondent is directed to bring the fourth respondent School under direct payment forthwith.

15.With the above directions, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

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 Director of Elementary Education,
DPI Campus,
Collegiate Road,
Chennai - 6.



2.The District Educational Officer,
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Sankarankovil,
Tirunelveli District.

3.The Block Development Officer,
Sankarankovil Range,
Sankarankovil,
Tirunelveli District.

+1 CC to M/s.SPL GP (SR-22913[F] dated 16/07/2021)

+1 CC to M/s.S.KUMAR, Advocate (SR-22996[F] dated 16/07/2021)

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-23074[F] dated
19/07/2021)

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RD(4.08.2021) 5P 7C