



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.A(MD)No.1582 of 2021

I.Thesinguraja

... Appellant / Petitioner

Vs.

1.The Secretary to Government,
Education Department,
State of Tamil Nadu,
Secretariat,
St. Fort George,
Chennai - 9.

2.The Director of School Education,
College Road,
Chennai - 6.

3.The District Educational Officer,
Thoothukudi District.

4.The Correspondent,
Bishop Azariah Memorial Higher Secondary school,
Vellalanvilai,
Thoothukudi District.

... Respondents / Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 22.07.2021 made in W.P(MD)No.836 of 2019 on the file of this Court.

Prayer in WP(MD). 836/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to pay the monetary and service benefits for the period from 6.8.2002 to 31.05.2007 as watchman and thereafter from 01.06.2007 to 03.01.2008 as Office Assistant in 4th respondent school by considering the petitioners representation dated 18.12.2017.

For Appellant : Mr.T.A.Ebenezer

For RR 1 to 3 : Mr.P.Thilak Kumar
Standing Counsel for the Government

For R - 4 : Mr.J.Kingsly Solomon



JUDGMENT

(Judgment of the Court was delivered by
M. DURAISWAMY, J.)

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Challenging the order, dated 22.07.2021, passed in W.P(MD) No.836 of 2019, the writ petitioner has filed the above Writ Petition.

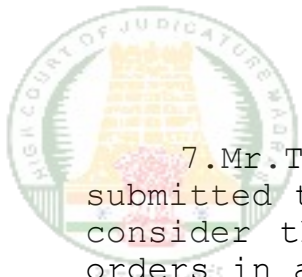
2.The appellant filed the above Writ Petition to issue a Writ of Mandamus, directing the respondents to pay the monetary and service benefits for the period from 06.08.2002 to 31.05.2007 as Watchman and thereafter from 01.06.2007 to 03.01.2008 as Office Assistant in the fourth respondent School by considering his representation, dated 18.12.2017.

3.The learned Single Judge dismissed the Writ Petition on the ground that the appellant has not taken any steps for approval as Watchman from 06.08.2002 and for approval as Office Assistant from 01.06.2007 and only in the year 2017, he gave a request for payment of Government salary from the date of his appointment ie., from 06.08.2002 to 31.05.2007 as Watchman and thereafter from 01.06.2007 to 03.01.2008 as Office Assistant. Further, the learned Single Judge while dismissing the Writ Petition observed that the appellant has not challenged the order of rejection of approval and accepted the regularization of the second respondent from 04.01.2008.

4.Mr.T.A.Ebenezer, learned counsel appearing for the appellant submitted that this Court in the Judgment reported in **2016 (3) LLJ 49 (Madras) (Deva Asir Vs. Secretary to Government, School Education Department)**, quashed G.O.Ms.No.115, School Education (D2) Department, dated 30.05.2007 and directed the official respondents to approve the appointments of non-teaching staffs in the Private Aided Schools and to sanction grant. The said order was passed by this Court on 15.03.2016.

5.It is brought to the notice of this Court that the appellant gave a representation to the third respondent on 18.12.2017, however, the third respondent has not passed any order so far.

6.The reasoning given by the learned Single Judge for dismissing the Writ Petition on the ground of laches cannot be sustained for the reason that the Government Order passed in G.O.Ms.No.115, School Education (D2) Department, dated 30.05.2007, itself was quashed only on 15.03.2016. The appellant has given his representation on 18.12.2017. Therefore, the question of laches shall not be put against the appellant for getting the relief.



7.Mr.T.A.Ebenezer, learned counsel appearing for the appellant submitted that it would suffice to direct the third respondent to consider the appellant's representation, dated 18.12.2017 and pass orders in accordance with law within a time frame.

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8.Mr.P.Thilak Kumar, learned Standing Counsel for the Government appearing for the respondents 1 to 3 submitted that the third respondent may be directed to consider the appellant's representation, dated 18.12.2017 and pass orders within a time frame.

9.In view of the submissions made by the learned counsel on either side, without going into the merits of the orders passed by the learned Single Judge, we direct the fourth respondent to forward the proposal given by the appellant to the third respondent and consequently, the third respondent is directed to consider the appellant's representation, dated 18.12.2017 and pass orders on merits and in accordance with law, taking into consideration the order passed by this Court reported in **2016 (3) LLJ 49 (Madras) (Deva Asir Vs. Secretary to Government, School Education Department)**, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

10.With these observations, the Writ Appeal is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// 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 Secretary to Government,
Education Department,
State of Tamil Nadu,
Secretariat,
St. Fort George,
Chennai - 9.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Director of School Education,
College Road,
Chennai - 6.

3.The District Educational Officer,
Thoothukudi District.

+1 CC to M/s.J.KINGSLY SOLOMON, Advocate (SR-26704[F] dated
18/08/2021)

W.A(MD)No.1582 of 2021
16.08.2021

RD(25.08.2021) 4P 5C