



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2021

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.21526 of 2019

and

W.M.P. (MD)Nos.18184, 18185, 18187 and 19422 of 2019

Sundaravel Raj

... Petitioner

Vs.

1.The State of Tamil Nadu,
represented by its Principal Secretary to Government,
School Education Department (Elementary Education),
Secretariat,
Fort St.George, Chennai - 600 009.

2.The Director of Elementary Education,
College Road, Chennai.

3.The District Educational Officer,
Cheranmahadevi, Tirunelveli District.

4.The Block Educational Officer,
Kadayam Range, Tirunelveli District.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records of the impugned G.O.(Ms).No.274, dated 28.12.2018, School Education (Elementary Education) 2(1) Department issued by the first respondent and the impugned communication of the fourth respondent in his proceedings bearing Na.Ka.No.790/A1/2011 dated 21.04.2015 to the third respondent along with the enclosures and quash the same and consequently to direct the respondents to sanction and pay forthwith on par with the salary allowances and other attendant benefits to the petitioner on par with B.T.Assistants appointed in Middle School section by upgrading the post of Secondary Grade Teacher in Vengadampatti Kshatiriyar Committee Middle School, Kadayam Range, Tirunelveli District to B.T.Assistant Post with effect from 01.06.2006.

For Petitioner

:Mrs.L.Victoria Gowri

For Respondents

:Mr.N.Shanmugaselvan

Additional Government Pleader



ORDER

The petitioner herein was a Secondary Grade Teacher in the Hindu Middle School, Subbanoor, Kilapavoor Range. Since the post became surplus in the said school, he was redeployed to Vengadampatti Kshatiriyar Committee Middle School, Kadayam Range, Tirunelveli District on 24.03.2010 in the same post of Secondary Grade Teacher.

2.The grievance of the petitioner is that he is entitled to the salary and other attendant benefits on par with the B.T.Assistant appointed in the Middle School Section and therefore, seeks for upgradation of his post of Secondary Grade Teacher to the BT.Assistant. The petitioner herein had earlier approached this Court seeking for a similar direction by filing a Writ Petition in W.P.(MD)No.1527 of 2016 and by order, dated 27.01.2016, a learned Single Judge of this Court was pleased to observe as follows:

"2.In view of the submission and endorsement made by the learned counsel for the petitioner, the Writ Petition is dismissed as withdrawn. No costs. Consequently, the connected miscellaneous petitions are also closed. Permission is specifically denied to raise the same issue again, since the matter is covered by various judgments."

3.The prayer in the above said Writ Petition was for a direction to the respondents to sanction and upgrade the petitioner's existing post of Secondary Grade Teacher to B.T.Assistant and consequently pay the salary allowance and other attendant benefits. When this Court had categorically rejected the same request earlier, the petitioner is not entitled to file another Writ Petition for a similar relief.

4.The learned Counsel for the petitioner placed reliance on another order of this Court, dated 15.03.2019 passed in W.P.(MD) No.6228 of 2019, whereby, a similar request once again was disposed of by this Court with the direction to the respondents to consider the petitioner's representation seeking for upgradation of the post of Secondary Grade Teacher. A perusal of the order does not reveal that the earlier order of this Court passed in W.P.(MD)No.1527 of 2016 was brought to its notice. As such, the order itself could be taken as *per incuriam*, in the light of the earlier order of this Court passed in W.P.(MD)No.1527 of 2016.

5.Apart from the aforesaid observations, it is a settled proposition of law that when an aggrieved party invokes the jurisdiction of this Court under Article 226 of Constitution of India, he would not be entitled to file a second Writ Petition on the same cause of action, which would be hit by the principles of *res judicata*.



6.For all the foregoing reasons, the prayer in the present Writ Petition, since being denied the same in the earlier Writ Petition, which was dismissed, is not maintainable and accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CMR

To

1.The Principal Secretary to Government,
The State of Tamil Nadu,
School Education Department (Elementary Education),
Secretariat, Fort St.George, Chennai - 600 009.

2.The Director of Elementary Education,
College Road, Chennai.

3.The District Educational Officer,
Cheranmahadevi, Tirunelveli District.

4.The Block Educational Officer,
Kadayam Range, Tirunelveli District.

+1 CC to Mrs.L.VICTORIA GOWRI, Advocate (SR-10818[F] dated 12/03/2021)

+1CC to THE SPECIAL GOVERNMENT PLEADER(SR-10938[F] dated 12/03/2021)

Order made in
W.P. (MD)No.21526 of 2019 and
W.M.P. (MD) Nos.18184,18185,18187&19422 of 2019
10.03.2021

SRK(CO)

SRS (23/03/2021) 3P : 7C