

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2022

CORAM

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY
AND
THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.A.No.1014 of 2022
and
C.M.P. Nos.6467 and 8201 of 2022

The Teachers Recruitment Board
rep. By its Member Secretary,
4th Floor, E.V.K.Sampath Building,
College Road, Chennai - 6.

..Appellant

Vs.

1. J.Ravi

2. The State of Tamil Nadu
rep. By its Secretary to Government,
Department of School Education,
Fort St. George, Secretariat,
Chennai - 9.

..Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 29.09.2021 in W.P.No.27113 of 2016.

Prayer in W.P.No.27113 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the file of the 1st respondent in connection with the order passed in Letter No.6727/TRB/2016-1 dated 25.5.2016 and the order passed by the 2nd respondent passed in Na.Ka. No.7888/A1/2016 dated 27.07.2016 and quash the same and consequently directing the respondents to regularize the service of the petitioner with effect from the date of appointment and to confirm the regularization order passed by the 2nd respondent in his proceedings dated 10.10.2002 in Na.Ka.No.2037/A4/2002 and to pay all the monetary and service benefits.

For Appellant .. Mr.R.Neelakandan,
Addl. Advocate General assisted by
Mr.K.V.Sajeev Kumar, Spl. Govt. Pleader

For Respondents.. Mr.M.Padmanabhan for R1
Mr.Abishek Moorthy, Govt. Advocate for R2

JUDGMENT
(delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order dated 29.09.2021 recorded on W.P.No.27113 of 2016. This appeal is by the second respondent in writ petition - Teachers Recruitment Board, Chennai. The State is the second respondent in this appeal.

2. Learned Additional Advocate General for the appellant has submitted that, the action of the appellant Board was in compliance of the instructions of the State and therefore the same ought not to have been interfered with. It is further submitted that the decision of the State to terminate the services of the writ petitioner after seeking explanation from him can also not be said to be illegal and therefore that ought not to have been interfered with. It is submitted that this appeal be entertained.

3. Learned Government Advocate, standing as respondent in this appeal submitted that, the State had, on the basis of the record available with it, arrived at the conclusion that the service of the writ petitioner could not have been regularised and the decision to discontinue his service can not be said to be an illegality and therefore this appeal be entertained.

4. On the other hand, learned advocate for the writ petitioner submitted that, the petitioner was appointed in the year 1988 and his service was regularised in the year 1992 with retrospective effect of the year 1988 and lastly in the year 2016, the Government decided that the regularisation of services of the writ petitioner was not legal and therefore the instruction was given to the Teachers Recruitment Board to ask for explanation. It is submitted that the writ petitioner has attained the age of superannuation on 28.02.2020 and though no termination order was ever passed, retirement dues of the writ petitioner are also not paid. It is submitted that this appeal be dismissed.

5. Having heard learned advocates for the respective parties and having considered the material on record, this Court finds as under:

5.1 The writ petitioner was appointed in the year 1988 and has attained the age of superannuation on 28.02.2020. The writ petitioner has thus put in service of more than 32 years. No termination order is ever passed. The action of the State that not paying retirement dues is thus too harsh.

5.2 While examining the sustainability of the order passed

by learned single Judge, we are conscious of the fact that non-payment of retirement dues is not the subject matter of this appeal, however ultimately, the writ petitioner has landed himself there, for the action of the respondent authorities. So far the subject matter of the writ petition is concerned, we find that in the impugned notice dated 26.07.2016 which was challenged, the appellant was asked to give explanation as to why his services be not discontinued, in view of the decision of the State that, its action of regularising the services in the year 1992 with effect from 1988 required reconsideration. We find that, such a decision by the State in the year 2016 itself was illegal and unsustainable. The consequential notice issued by the present appellant - second respondent in the writ petition in any case was unsustainable and is rightly set aside by learned single Judge. We do not find any error in the order of learned single Judge. This appeal therefore needs to be dismissed.

6. We further find that non-payment of retirement dues of the writ petitioner, though no termination order was ever passed, is too harsh and it is directed that the retirement dues of the writ petitioner shall be paid within a period of two months from today.

7. This writ appeal is dismissed, with above observation and direction. No costs. Connected miscellaneous petitions would not survive.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mmi/59

To

1. The Secretary to Government,
Department of School Education,
Fort St. George, Secretariat,
Chennai - 9.
2. The Member Secretary,
The Teachers Recruitment Board,
4th Floor, E.V.K.Sampath Building,
College Road, Chennai - 6.

+1cc to M/s.M.Padmanaban, Advocate, S.R.No.40984

W.A.No.1014 of 2022

PMK(CO)
RGA(12/07/2022)