



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.6139 of 2022

and

W.M.P.Nos.6215 and 6216 of 2022

I Joushua Vimalanathan

... Petitioner

vs.

1. The Commissioner,
Office of the State Commissionerate
Welfare for the Differently Abled,
Lady Wellington College Campus,
Kamaraj Salai,
Chennai - 600 005.
2. The District Welfare Officer,
Office of the District Welfare for the Differently Abled,
Anna Salai,
Vellore District - 632 001.
3. IELC School and Rehabilitation Centre for the
Mentally Retarded (Recognised by the
Government of Tamil Nadu)
Mission Compound,
Bunglowmedu,
Pernambut - 635 810,
Vellore District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned Order passed in Na.Ka.No.8930/CP1/2019 on the file of 1st Respondent dated 30.09.2019 signed on 09.10.2019, quash the same, consequently, direct the 1st respondent to alter the Date of Birth of the Petitioner as 09.04.1963 in his service records as per the recommendation of 2nd respondent dated 14.08.2008 and to pay salary and other monetary and consequential benefits to



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the Petitioner on that basis together with interest from the date the amount is due till the date of actual payment.

For Petitioner : Mr.V.Prakash
Senior Counsel
for Mr.R.Gunaalan

For R1 and R2 : Mr.T.Chezhiyan
Additional Government Pleader

For R3 : Mr.Bazeer Ahmed

O R D E R

This Writ Petition has been filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed in Na.Ka.No.8930/CP1/2019 on the file of 1st the respondent dated 30.09.2019 signed on 09.10.2019, quash the same, consequently, to direct the 1st respondent to alter the Date of Birth of the petitioner as 09.04.1963 in his service records as per the recommendation of the 2nd respondent dated 14.08.2008 and to pay salary and other monetary and consequential benefits to the petitioner on that basis together with interest from the date the amount is due till the date of actual payment.

2. According to the petitioner, the petitioner was appointed as a Secondary Grade Assistant Teacher (S.G. Assistant) on 04.06.2004 in the 3rd respondent/school. Thereafter, his service was regularised with effect from 01.06.2006 by the 2nd respondent, by an order dated 25.09.2006. According to the petitioner, his correct date of birth is 09.04.1963 as per the birth certificate issued by the Ambur Municipality, Vaniyambadi Taluk, Vellore District. But at the time of admitting him in school, his date of birth was wrongly given by his parents as 03.02.1962. Therefore, the 3rd respondent/School has submitted an application dated 15.07.2008 under Section 49(b) of the Tamil Nadu State Subordinate and Service Rules, 1957, before the 2nd respondent seeking alteration of date of birth of the petitioner. But the said application has not been considered. Hence, he has filed the instant writ petition before this Court.

3. After the arguments advanced by the parties, the learned Additional Government Pleader appearing for the 1st and 2nd respondents, on instructions, informed before this Court that the petitioner is due to retire on 30.06.2022 namely in the



middle of the academic year. Therefore, as per the Government Order in G.O.Ms.No.115, School Education Department, dated 28.06.2022, wherein the Government has passed an order for re-employment of the teachers, who retired from service in the middle of the academic year. Therefore, if any fresh application submitted by the petitioner seeking for re-employment, the same would be duly considered by the concerned authority, if otherwise eligible and permitting the petitioner to continue in service till the academic year.

4. To that extent, the learned Senior Counsel appearing for the petitioner also agrees that the petitioner would make necessary application before the 1st respondent on or before 04.07.2022.

5. Recording the above said statements made by the parties, this Court is inclined to pass orders as follows:-

- (i) The petitioner is directed to make an application for re-employment before the 1st respondent on or before 04.07.2022.
- (ii) If any such application being received by the 1st respondent, the same shall be considered and pass appropriate orders in accordance with Government Order, if otherwise eligible, as early as possible, within a period of four weeks from the date of such application received from the petitioner. It is made clear that the petitioner shall continue in service, till passing of the final order and insofar as payment of salary is concerned, subject to outcome of final order passed by the 1st respondent.

6. With the above directions, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Office of the State Commissionerate
Welfare for the Differently Abled,
Lady Wellington College Campus,
Kamaraj Salai, Chennai - 600 005.

2. The District Welfare Officer,
Office of the District Welfare for the Differently Abled,
Anna Salai, Vellore District - 632 001.

+1cc to Mr.R.Gunaalan, Advocate, S.R.No.41746

W.P.No.6139 of 2022

VBM[co]
NSK/01/07/2022