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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.9397 of 2015

and

W.M.P.No.36698 of 2019

J.Ravichandran

...Petitioner

-Vs-

1.The Secretary to Government,
Education Department,
Government of Tamilnadu,
St. George Fort,
Chennai - 600 009.

2.The Director of Elementary Education,
College Road, Nungambakkam,
Chennai - 600 006.

3.The District Elementary
Educational Officer,
Manjakuppam, Cuddalore - 607 001.

4.The Assistant Elementary
Educational Officer,
Kammapuram - 606 103,
Cuddalore District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 1 and 2 to regularize the petitioner's non-employment period i.e., from 05.12.1993 to 17.10.2004 as service period with monetary benefits.

For Petitioner : Mr.R.Kamaraj

For Respondents: Ms.P.Rajarajeswari,
Government Advocate

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.



2. The petitioner herein, who was appointed as a Craft Teacher in Paravallur Aided Middle School, Viruthachalam Range, Cuddalore District, was dismissed from the services on 05.12.1993 by the school management. Through the proceedings of the Chief Educational Officer dated 23.12.1994, the petitioner was directed to be reinstated back into service with an observation that the salaries for the period of non-employment shall be borne by the school management. When the school had challenged the said order of reinstatement, the writ petitions in W.P.Nos.2684 and 2685 of 1995 came to be dismissed for default on 27.06.2002.

3. In this background, when the school had offered to reinstate the petitioner, through their letter dated 11.11.2002, the petitioner made a request to the District Elementary Educational Officer on 02.12.2002, seeking for posting him to some other Aided Middle School and accordingly, an order dated 16.06.2004 came to be passed by the third respondent herein, posting the petitioner to an Aided Middle School at Vilakkapadi. It is in this background, the petitioner made a request to the authorities seeking for regularization of his period of non-employment between 05.12.1993 and 17.10.2004 as service period, together with the salaries payable for the said period. His representation in this regard was not considered favourably and hence, the present writ petition.

4. The Chief Educational Officer, in his proceedings dated 23.12.1994, had passed orders, directing reinstatement of the petitioner back into service. This order has become final, since the management's challenge to the said order was dismissed by this Court in the order passed in W.P.Nos.2684 and 2685 of 1995 on 27.06.2002. As such, the petitioner is deemed to be in continuous service even during his period of non-employment, i.e., between 05.12.1993 and 17.10.2004.

5. Insofar as the petitioner's claim for monetary benefits for the period of non-employment is concerned, the learned counsel for the petitioner would rely upon an order of the Government of Tamil Nadu in G.O.Ms.No.1664 Education Department, dated 04.09.1978, which states that when the school management refuses to implement the orders of the Chief Educational Officer, the Inspecting Officers shall arrange to make direct payments of salaries to the staff of the concerned school. The relevant portion of G.O.Ms.No.1664 reads as follows:-

"4.

In all cases where the school managements refuse to implement the duly passed orders of the Chief Educational Officer/Joint Director of School of Education who are



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appellate authorities prescribed in rule 18 of the Tamil Nadu Recognised Private Schools (Regulation) Rule, 1974 to re-instate the teachers and other persons into the services of the school the inspecting officers of the School Education Department shall arrange to make direct payments of salaries to the staff of the concerned schools. Further, the Government empower the officers mentioned below to absorb such affected teachers or other persons on transfer along with the posts held by them to other needy private aided or Government or local body schools under their jurisdiction:-

1. Chief Educational Officer : In respect of the affected teachers and other persons employed in private high schools and teachers training institutes
2. District Educational Officer : In respect of affected teachers employed in private pre-primary, primary and middle schools and special schools."

6. If the said Government Order is made applicable to the petitioner's case, possibly, the petitioner herein would be entitled for the salaries for the non-employment period, since the school management had refused to implement the orders of the Chief Educational Officer, dated 23.12.1994 and has also failed in challenging such proceedings.

7. Thus, the claim made by the petitioner seeking for regularization of his non-employment period between 05.12.1993 and 17.10.2004 seems justifiable. Insofar as the monetary claim for the said period is concerned, the respondents shall consider the same, in the light of G.O.Ms.No.1664, dated 04.09.1978, if the same is applicable to him, and pass appropriate orders.

8. In the light of the above observations, the petitioner is granted liberty to make a fresh representation, by enclosing a copy of this order along with any other Government Orders he may rely upon, to the second respondent herein, as expeditiously as possible and on receipt of the same, the second respondent shall take into consideration all the observations made in this order and accordingly pass an appropriate order, regularizing the petitioner's services for the non-employment period and further consider his claim for the salaries during his period of non-employment. Such an order shall be passed by the second respondent, atleast within a period of eight (8) weeks from the



date of receipt of the petitioner's representation.

9. The Writ Petition stands disposed of, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

hvk

To

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3.The District Elementary
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4.The Assistant Elementary
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Cuddalore District.

+1cc to Mr.R.Kamaraj, Advocate, S.R.No.2103
+1cc to the Government Pleader, S.R.No.2711

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