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W.P.No.15804 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.15804 of 2020

T.Kubera Sambath

.. Petitioner

vs.

1.The State of Tamilnadu,
Rep. By its Principal Secretary,
School Education Department,
Fort St.George, Chennai-600 009.

2.The Director of Elementary Education,
D.P.I. Compound, College Road,
Chennai-600 006.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to regularize the petitioner from the initial date of appointment till 01.06.2006 with all consequential monetary and service benefits.

For Petitioner : Mr.K.R.Gunashekar

For Respondents : Mr.T.Chezhiyan,

Additional Government Pleader for R1 & R2

ORDER

The prayer in the writ petition is for a Mandamus directing the first respondent to regularize the services of the petitioner from the date of initial appointment till 01.06.2006 with all consequential monetary and service benefits.



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2. The petitioner was initially appointed as Junior Grade B.T.Assistant through Teachers Recruitment Board with effect from 27.06.2004 and thereafter, promoted as Panchayat Union Middle School Headmaster on 01.06.2010 and his appointment was regularized with effect from 01.06.2006. As per G.O.Ms.No.100 dated 27.06.2003, the Government took decision that vacancies that are available on 01.06.2003 in various Panchayat, Union Schools, High Schools and Higher Secondary Schools shall be downgraded and re-designated as Junior Grade Secondary Grade Teacher, Junior Grade B.T. Assistant and Junior Grade PG Assistant on consolidated pay, but there was no corresponding amendment to the service Rule. As per G.O.Ms.No.99, School Education (Budget-2) Department dated 27.06.2006, the service of all the teachers, who were appointed on a consolidated pay, vide G.O.Ms.No.100 dated 27.06.2003, shall be regularised with effect from 01.06.2006 and accordingly, the petitioner's service was regularised with effect from 01.06.2006. The grievance of the petitioner is that the period between the date of initial appointment i.e., 27.06.2004 to 01.06.2006 has not been regularized and hence, he has filed the present writ petition.



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3. The learned counsel appearing for the petitioner submitted that this court in similar matters in W.P.No.4991 of 2015 dated 30.07.2019 and W.P.No.27923 of 2019 dated 27.11.2019, has directed the respondents to regularize the service of the petitioners therein from the date of their original appointment. Therefore, on the same line, the respondents may be directed to consider the request of the petitioner to regularise his service from the date of original appointment.

4. The learned Additional Government Pleader submitted that originally the petitioner was appointed as Junior Grade B.T. Assistant on consolidated pay, after that, the petitioner appeared in the examination conducted by the Teachers Recruitment Board and got selected based on merits. Therefore, earlier service period on consolidated pay cannot be countenanced for regularisation and the Government has rightly regularised his service, in accordance with the Rules. The learned Additional Government Pleader further submits that as against the order passed in W.P.No.4991 of 2015 dated 30.07.2019 and W.P.No.27923 of 2019 dated 27.11.2019, review application has been filed by the respondents/Department.



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5. This Court has considered the submissions made and also perused the materials on record.

6. Admittedly, the petitioner was appointed as Junior Grade B.T. Assistant on consolidated pay and his appointment was not filled up in the sanctioned post. Subsequently, the petitioner was selected by the Teachers Recruitment Board, in accordance with the relevant Rules. The respondents have also regularised his service from 01.06.2006 by following the Government Orders. Now, the petitioner sought for regularization from the date of his initial appointment, on which he was appointed under consolidated pay.

7. In view of the above, this court is inclined to pass the following order :

i) Liberty is granted to the petitioner to make a representation before the Director of Elementary Education, the second respondent herein, within a period of two weeks from the date of receipt of a copy of this order.



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ii) On such representation being made by the petitioner, the second respondent is directed to consider the same and pass orders in accordance with law, by taking note of the decisions of this court in W.P.No.4991 of 2015 dated 30.07.2019 and W.P.No.27923 of 2019 dated 27.11.2019, within a period of twelve weeks from the date of receipt of the representation. The petitioner shall also furnish additional particulars, if any, along with his representation, before the second respondent.

8. With the above directions, all the Writ petitions are disposed of. No costs.

14.06.2022

Index : Yes / No
Internet : Yes / No
Jvm

To

1. The Principal Secretary,
The State of Tamilnadu,
School Education Department,
Fort St.George, Chennai-600 009.

2. The Director of Elementary Education,
D.P.I. Compound, College Road,
Chennai-600 006



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D.KRISHNAKUMAR. J

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