



WEB COPY



W.P.No.5016 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5016 of 2016

P.Kandasamy

... Petitioner

-Vs-

1. The State of Tamilnadu,
Rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai- 600 009.

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

3. The District Elementary Educational Officer ,
Office of the District Collector Campus,
Salem-636 001, Salem District.

4. The Additional Assistant Elementary ,
Educational Officer,
Kadaiyampatti-636 351,Salem District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 3rd Respondent in his proceedings Na.Ka. No. 4545/A3/2015 dated 07.12.2015 and quash the same, and direct the Respondents to regularize the period from 27.12.1990 to 08.09.1993 and to pre-pone the Special Grade, to grant notional



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promotion in the post of Headmaster, Tamil Pandit, and Headmaster of Middle School respectively in the year 1991, 1993 and thereby to disburse the service benefits and pension.

For Petitioner : Mr.P.Ganesan for
Mr.K.Premnath

For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader

ORDER

The order of rejection rejecting the claim of the writ petitioner to regularise the period from 27.12.1990 to 08.09.1993 in proceeding dated 07.12.2015, is under challenge in the present writ petition.

2. The writ petitioner Shri.P.Kandasamy was appointed as Higher Grade Assistant on 20.09.1967, thereafter he was promoted up to the level of Headmaster on 17.01.1997, and was permitted to retire from service on 31.05.2000, on attaining the age of superannuation.

3. The petitioner states that while he was working as a Secondary Grade Assistant, a transfer proceeding was initiated against him after awarding the punishment of Censure and then he was terminated from service. He filed an application before the Tamil Nadu Administrative Tribunal in O.A.No.355 of 1991 and the Tribunal granted an interim



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stay. However, the said original application was subsequently transferred before the High Court and was disposed of in the year 2005.

4. The learned counsel for the petitioner states that the petitioner was not permitted to join duty from the year 1990 to 1993, despite the fact that an interim stay granted by the Tamil Nadu Administrative Tribunal was in force.

5. The learned Special Government Pleader, appearing on behalf of the respondents disputed the said contentions by stating that the petitioner had not joined duty during the relevant point of time since he was transferred to some other place, and therefore, the claim of the petitioner was rejected by the department. However, several years lapsed and admittedly, the petitioner retired from service on 31.05.2000. Even at the time of filing the present writ petition, he was aged about 74 years and during the pendency of the writ petition, he died and the legal heirs are impleaded.

6. Lapsed claims cannot be restored after several years. In the present case, for the purpose of restoring the lapsed claim, the writ petitioner filed a separate writ petition in W.P.No.29934 of 2015 and



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obtained an order to consider his representation and pass orders. By virtue of the said order, issued by the High Court on 23.09.2015, the impugned order has been passed by the respondents in proceeding dated 07.12.2015.

7. There is a growing practice that the litigants, after a lapse of several years, are sending blanket representations to the authorities and filing a writ petition with the prayer to consider the representation. The High Court is also issuing directions to consider the representation and the authorities are forced to pass orders on merits. Such orders are taken by way of another writ petition and in such manner, the cause of action is restored after several years.

8. Such practice is unconstitutional and results on account of issuing routine orders of direction to consider the representation. Even for issuing a direction to consider the representation, the rights of the parties have to be established and the issues have to be adjudicated. Contrarily, merely issuing a direction would do no service to the cause of justice and the litigant will be back again with another writ petition and when such writ petitions are admitted and taken up for hearing after several years, it is found that the dead cause of actions are restored and



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there is no record available even for adjudication on merits.

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9. In the present case, the petitioner claims that the period of service from 1990-93 is to be regularized and he filed an original application before the Tribunal which was disposed of long back. The petitioner retired from service on 31.05.2000 itself and thereafter, he filed a fresh writ petition in the year 2015 and obtained an order of direction to consider his representation.

10. Such a method of restoration of the cause of action is to be deprecated and this Court is of the considered opinion that the claim has lapsed long back and the principle of laches would apply in this case. Therefore, this Court does not find any infirmity in respect of the order passed and therefore, the writ petition is devoid of merits and thus stands **dismissed**. There shall be no order as to costs.

Index : Yes
Speaking order
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10.11.2022
(2/3)



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Rep. by its Secretary to Government,
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S.M.SUBRAMANIAM.J.,

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