



WEB COPY



W.P.No.33150 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.33150 of 2017

W.Ruben Franklin

... Petitioner

Vs.

1.The Secretary to Government,
Education Department,
Fort St. George,
Chennai – 600 009.

2.The Chief Educational Officer,
Dindigul District,
Dindigul.

3.The Head Master,
The Government Higher Secondary School,
Vembarpatti Post,
Dindigul District.

... Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the 1st respondent to consider the representation made by the petitioner dated 08.06.2017 submitted through proper channel requested the 1st respondent to effect petitioner promotion as High School Headmaster for the year 2007-2008 and higher Secondary School Headmaster for



W.P.No.33150 of 2017

2012-2013 and to grant notional annual increment for the period between 27.03.2006 and 28.07.2011 with all consequential benefits within a stipulated time.

For Petitioner : M/s.S.T.P.Kuilmozhi

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

ORDER

The writ petition has been filed to direct the 1st respondent to consider the representation made by the writ petitioner dated 08.06.2017 for promotion as High School Headmaster for the year 2007-2008 and Higher Secondary School Headmaster for 2012-2013, with all monetary benefits.

2.The petitioner was appointed as B.T. Assistant on compassionate grounds in the year 1990. The petitioner was provided with compassionate appointment due to the death of his father Late.Mr.P.M.Wilson on 28.09.1985.

3.The learned Special Government Pleader appearing on behalf of the respondents made a submission that both father and mother of the writ petitioner



W.P.No.33150 of 2017

were working in Government service and his mother Smt.Mary Angelina Danislas

was working in Government service and retired from service on 01.07.1986. The mother of the writ petitioner retired from service after the death of the father of the writ petitioner on 28.09.1985. Thus, on the date of the death of the father of the writ petitioner, the mother was in Government service and therefore, the petitioner was not eligible for compassionate appointment. But he suppressed the fact and obtained an indigent certificate from the authorities based on false set of facts and secured employment on compassionate ground.

4.In respect of the compassionate appointment, action was taken by the respondents and he was removed from service. The petitioner filed O.A.No.9312 of 1997 before the Tamil Nadu Administrative Tribunal which was transferred to the High Court and renumbered as W.P.No.32143 of 2006. The High Court directed the authorities to consider the facts and pass orders. The petitioner was dismissed from service, he filed another writ petition, challenging the order of dismissal in W.P.No.10040 of 2006 and the order of dismissal was set aside. Writ Appeal filed by the respondents in W.A.No.928 of 2008, was dismissed and the petitioner was reinstated in the service without back wages. The respondents states



W.P.No.33150 of 2017

that the petitioner is not deprived of his promotion and he will be promoted as Headmaster in the Department of School Education and his name will be considered by the competent authorities as and when he comes within the ambit of seniority and if found otherwise eligible. As contended by the petitioner while awarding the consequential benefits, it is applicable to monetary benefits alone and not for service benefits, because, the writ petitioner was reinstated without back wages based on the orders of the Hon'ble Division Bench. It is contended that the period between the 27.03.2006 to 28.07.2011 will not be counted for promotion and other benefits, because there is no back wages for the said period as per the orders of the Court. Further, the writ petitioner is not eligible for notional fixation, revision and increment and for promotion. The said period will not be counted because there is no back wages as per the orders of the Hon'ble Division Bench in W.A.No.928 of 2008 dated 09.07.2010.

5.The learned Special Government Pleader brought to the notice of this Court that the writ petitioner was promoted to the post to High School Headmaster on 02.08.2018 and he was holding the post of Headmaster High School as per the promotion order and he attained the age of superannuation on 31.07.2022 and his



W.P.No.33150 of 2017

services was extended till the end of the academic year as per the Government Policy. Thus, the petitioner was allowed to retire from service and he was already promoted to the post of High School Headmaster and he is not eligible for further promotion to the post of Higher Secondary School Headmaster.

6. Even the relief sought for in the present writ petition is to consider the representation. Since the respondents have filed a counter affidavit setting out the merit of the case and as per the facts, the petitioner was already promoted as High School Headmaster in accordance with rules, there is no reason whatsoever to consider the representation submitted by the writ petitioner. Thus, the petitioner is not entitled for any further relief.

7. Accordingly, this writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

23.09.2022

Index : Yes
Internet : Yes
Speaking order
ssr



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W.P.No.33150 of 2017

S.M.SUBRAMANIAM, J.

SSR

To

- 1.The Secretary to Government,
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W.P.No.33150 of 2017

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