



W.P.(MD)No.827 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.827 of 2020

J.Kamalammal

... Petitioner

Vs.

1.The Director of School Education,
DPI Complex,
Nungambakkam,
Chennai - 06.

2.The Chief Education Officer,
Kanyakumari District
at Nagercoil.

3.The District Education Officer,
Having Office at Nagercoil,
Kanyakumari District.

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4.The Correspondent/Secretary,
Christian Welfare High School,
Thadikarankonam,
Kanyakumari District - 629 851.

... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings of the 2nd respondent bearing Na.Ka.No.4014/E4/2017 dated 14.10.2019 and set aside the same and consequently direct the respondents to pay arrears of salary payable to the petitioner for her service as Secondary Grade Teacher from 16.08.1995 to 01.06.2003.

For Petitioner : Mr.K.Samidurai

For Respondents : Mr.D.Sadiq Raja - for R1 to R3
Additional Government Pleader

No Appearance - for R4

ORDER

This Writ Petition has been filed to quash the impugned impugned proceedings of the second respondent bearing Na.Ka.No.4014/



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E4/2017 dated 14.10.2019 and consequently direct the respondents to pay arrears of salary payable to the petitioner for her service as Secondary Grade Teacher from 16.08.1995 to 01.06.2003.

2. The learned counsel for the Petitioner submitted that the third respondent is an aided school receiving Grant-in-Aid from the Government, in which, the petitioner was appointed as Secondary Grade Teacher by the third respondent, vide proceedings, dated 16.08.1995. The petitioner was a graduate with B.Ed. At the time of appointment as a Secondary Grade Teacher, the Government issued G.O.Ms.No.559, dated 11.07.1995 directing the educational authorities not to approve the appointment of B.Ed. Teachers in the Secondary Grade Teacher vacancies. Since the petitioner acquired higher qualification however, subsequently, in the year 1995, the Government permitted the aided schools to appoint B.Ed. Teachers in the Secondary Grade Teacher vacancies due to the non-availability of the candidature with diploma in teacher education and thereafter, the appointment of the petitioner was forwarded by the third respondent for approval and the same not



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approved since the petitioner was appointed after issuance of the above said G.O. and challenging the said G.O.Ms.No.559, all writ petitions are dismissed on 19.05.1998 and the petitioner retired from service on 30.04.2011. Even before retirement, she sent several representations to the authorities seeking grant salary from the date of initial his appointment from 16.08.1995 to 01.06.2003. However, no order was passed, hence, the petitioner filed a writ petition before this Court in W.P.(MD) No.15074 of 2018 and this Court by its order, dated 28.03.2019, issued a direction to the respondent to consider and pass orders. Pursuant to which, the present impugned order is passed. Challenging the same, the present writ petition is filed.

3. The learned counsel for the petitioner would submit that though the petitioner was appointed initially in the post of Secondary Grade Teacher on 16.08.1995, however, the said post was not approved by the official respondents, till 2003. However, the said post of the petitioner was approved only in the year 2003 vide proceedings, dated 26.04.2003, with certain conditions. However, the condition imposed in



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the approval order is not sustainable one and further denying the benefit from the date of initial appointment i.e. 16.08.1995 to 01.06.2003 is not sustainable. Accordingly, he prayed for appropriate orders.

4. Per contra, the learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that admittedly the petitioner's appointment was approved by the official respondent only in the year 2003 with certain conditions and the condition that the petitioner not claiming any benefit after the appointment and excess salary received by the petitioner during her employment will be repaid to the official respondents and further, if the certificate produced by the petitioner is found to be false in future, her services will be terminated and the petitioner agreed to maintain the students ratio and when accepting the condition in the appointment order and the petitioner also retired from service in the year 2011 and after lapse of seven years, the petitioner made representation to count his past alleged service in the private management is not sustainable one and hence, the writ petition may be dismissed on the ground of delay and latches.



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5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for respondents 1 to 3.

6. The facts in the present case are not in dispute. Admittedly, the petitioner's appointment was approved by the official respondent only on 26.04.2003 and prior to that, the petitioner claims that her appointment was made by the private management in the year 1998. Unless the post is approved by the competent authority, any employment employed by the petitioner in the management is not binding on the official respondents. If at all the petitioner has any grievance she has to made a claim against the private management, for which, the official respondents is need not pay any benefit to the petitioner and further in the present case, the petitioner retired from service in the year 2011 and after a lapse of 7 years, the petitioner made a representation and filed a writ petition. Thereafter, the present impugned order is passed and moreover, no proper explanation is made in the writ petition for delay in making the representation for claiming the benefits.



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7. Accordingly, this writ petition is dismissed on the ground of delay and laches. No Costs.

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Internet : Yes / No
RM

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