



W.P.(MD) No.1144 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.1144 of 2020
and WMP(MD) No.906 of 2020

K.Rani

... Petitioner

-VS-

1.The State of Tamil Nadu

Rep. By the Director of Elementary Education,
DPI Compound, College Road,
Nungambakkam, Chennai.

2.The District Educational Officer,

Melur Education District
Trichy Road, Melur
Madurai District

3.The Additional Block Educational Officer,
Madurai East Region,Madurai.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No.758/A1/2019 dated 08.11.2019 and quash the same on the ground that the same is arbitrary, illegal and without any legal basis



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and consequently direct the respondents to provide the middle school Assistant Teacher Post to the petitioner and further provide the monetary benefits to the petitioner from August 2010.

For Petitioner : Mr.S.Karthick

For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

Challenging the impugned order of the 3rd respondent dated 08.11.2019 and for a consequential direction to the respondents to provide the post of Middle School Assistant Teacher to the petitioner, this writ petition has been filed.

2.It is the case of the petitioner that initially she was appointed in Dhanamani Vidyasala Middle School, Madurai on 29.06.1990. Since the administration of the school was not satisfactory, the said school was taken over by the department and was running under the control of the third respondent. Subsequently, since finding maladministration by the third respondent, the petitioner filed W.P.(MD) No.1868/2005 seeking salary and other monetary benefits and W.P.(MD) No.1128/2009 was also filed to



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consider the representation for grant of increment. Thereafter, while the school was under the direct payment of the Assistant Elementary Educational Officer, Madurai East, the petitioner made a representation for grant of provident fund advance loan. However, the same was not considered and hence the petitioner made complaint against the officials and also filed W.P.(MD) No.9329/2010 seeking provident fund, which was ordered on 21.07.2010. Pursuant to the said order also, the case of the petitioner was not considered and the petitioner was denied the salary and other benefits and the said school was also closed. Subsequently, the petitioner was also not considered for any other school. The petitioner therefore, made various representations on 02.02.2011, 06.05.2011, 07.07.2011, 13.10.2011 etc. While so, the petitioner filed a writ petition in W.P.No.9841/2015 seeking mandamus to provide the Middle School Assistant Teacher post with all monetary and other benefits. In the said writ petition, the respondents were directed to pass appropriate orders on merits. Even after such order being passed, the case of the petitioner was neither considered nor posting will be given. However, on 08.11.2019, the impugned order was passed providing the increments, but however denied



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the back wages from January 2011 to till date.

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3. The learned counsel for the petitioner would submit that though the petitioner was not in employment right from 2011 onwards and the said school was also closed in the year 2010 and subsequently the third respondent/official respondents have not sent any communication to the petitioner with regard to posting to some other school and the petitioner was in dark till 2015 and thereafter, the petitioner filed W.P.No.9841/2015 and this Court, by order dated 02.04.2019, directed the respondents to pass orders by providing the post of middle school Assistant post and consequently directed the respondents to provide the petitioner the backwages from 2010 to till date. Pursuant to the said order, the respondents have passed an order rejecting the request of the petitioner and as such, the petitioner is before this Court.

4. The learned Government Advocate by relying upon the counter affidavit submitted that All the teachers Dhanamani Vidhyasala Middle School, Goripalayam was immediately transferred to Sri Harivatha Jayaram



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Elementary School, Sedapatti by Order dated 18.07.2011. The same was communicated to the Petitioner's last known address, but it was returned to the Department, as 'no such addressee'. Further, the Petitioner has slept over the issue for more than 9 years and filed writ petition in year, 2019 is not sustainable. Further, the claim of the Petitioner was rejected on the ground of 'No Work No Pay'.

5. Heard the learned counsel for the petitioner and the learned Government Advocate and perused the materials available on record.

6. It is not in dispute that the petitioner was appointed as a Teacher and subsequently the said school, in which the petitioner worked, was closed due to maladministration and less students strength in the year 2010. However, the petitioner previously filed two writ petitions in W.P. (MD) Nos.1868/2005 challenging the deployment order and W.P.(MD) No. 1128/2009 to regularise the leave of the petitioner. However, the respondent claimed that due to closure of the school, the petitioner was transferred to nearby Sri Harivatha Jayaram Elementary School, Sedapatti on 18.07.2011.



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It is an admitted fact that the petitioner has not taken any steps from 2011 to 2015. Only in the year 2015, the petitioner filed a writ petition seeking for payment of salary. However, the petitioner has not joined duty and she has not taken any steps to secure information from the respondents as to whether any posting order is received. During the pendency of the writ petitions, the impugned order is passed. However, the fact remains that right from 2011, the petitioner was neither in employment and nor worked in any of the department and therefore claiming the benefits when she was not in service is unsustainable one. Hence, no interference is warranted to the impugned proceedings of the third respondent dated 08.11.2019. Accordingly, the writ petition is dismissed. However, this order will not stand in the way of the petitioner's claim, after she rejoin duty in transferred place. No costs. Consequently connected Miscellaneous Petition is closed.

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Index : Yes/No
Internet : Yes

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M.DHANDAPANI, J.

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