



WP(MD)No.669 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2022

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

WP(MD)No.669 of 2022

and

WMP(MD)No.535 of 2022

T.V.C.Gnanaraj

... Petitioner

Vs.

1. The Hon'ble Administrators
of Tirunelveli Diocese,
(Appointed by Hon'ble High Court, Madras)
CSI Tirunelveli Diocese,
Tirunelveli - 627 002.
2. The Chief Educational Officer
Tirunelveli District,
Kokkirakulam, Tirunelveli – 627 009.
3. The District Educational Officer,
Tirunelveli Educational District,
Govt. School Campus,
Swamy Nellaiappar Salai,
Tirunelveli Town, Tirunelveli – 627 001.
4. The Manager,
High Schools & Higher Secondary Schools,
CSI Tirunelveli Diocese, Tirunelveli 627 002.
5. Mary Sargent Girls Higher Secondary School
75A, Tirunelveli Rd Near Bharat Petroleum,
Palayamkottai, Tirunelveli – 627 002
rep.by its Correspondent.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the respondent authorities 2 to 5 to comply with the proceedings dated 22.11.2019 passed by the Hon'ble Administrators of CSI Tirunelveli Diocese and consequent sanction order dated 25.01.2021 passed by the third respondent and release the retirement benefits including the salary arrears of the petitioner's deceased wife M.Sheela for the period from 22.07.2017 to 31.07.2018 within a time to be fixed by this Court.

For Petitioner	: Mr. M.Sudhan
For R1	: Mr.Thangasivan
For R2 & R3	: Mr.S.Shaji Bino, Special Government Pleader
For R4 & R5	: Mr.P.P.Alwin Balan

ORDER

This writ petition has been filed for issuance of a writ of mandamus, directing the respondents 2 to 5 to comply with the proceedings dated 22.11.2019 passed by the Hon'ble Administrators appointed by this court and the sanction order dated 25.01.2021 passed by the third respondent and consequently, release the retirement benefits including salary arrears of the petitioner's deceased wife M.Sheela for the period from 22.07.2017 to 31.07.2018 within a time to be fixed by this Court.



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2. According to the petitioner, his wife M.Sheela was serving as Headmistress of the fifth respondent school till 31.07.2018. The fifth respondent school is a Government aided religious minority institution and that, the appointment and service of the petitioner's wife were approved by the authorities concerned and she was drawing her salary from the Government aid all along till 21.07.2017. While so, by order dated 21.07.2017, the petitioner's wife was transferred from the fifth respondent school to West Tirunelveli Higher Secondary School, Nallur in the middle of the academic year. Challenging the said order of transfer, she filed W.P.(MD)Nos.13749 of 2017 and this court, by order dated 24.07.2017, disposed of the said writ petition by directing the respondent authorities not to disturb the petitioner therein. Subsequently, by order dated 01.08.2017, the said interim order was extended until further orders. Pursuant to the same, the petitioner's wife has been regularly attending the school, but she was not allowed to work as Headmistress and she was asked to sign in a separate register and that, she was staying within the school campus till her retirement. Further, she was not paid salary from 22.07.2017 to till her retirement. In such circumstances, the petitioner's wife approached the Hon'ble Administrators appointed by this court by filing complaint. By order



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dated 22.11.2019, the Hon'ble Administrators directed the fifth respondent school to claim salary for the petitioner's wife for the period from 22.07.2017 to 31.07.2018 and also directed the Educational authorities to sanction the bill so raised by the fifth respondent immediately. It was further observed that the petitioner's wife would be entitled to all retirement benefits as she retired from service on 31.07.2018. Subsequently, the third respondent passed the proceedings dated 25.01.2021, sanctioning the salary from 22.07.20217 to 31.07.2018 payable to the petitioner's wife. Thereafter, the fifth respondent submitted a representation to the third respondent claiming payment of salary to the petitioner's wife. However, till date, no action has been taken on the same. Therefore, this writ petition.

3. The learned counsel for the petitioner submitted that the wife of the petitioner has been continuously working in the fifth respondent school, with effect from 22.07.2017, on the basis of the orders of this court as well as the Hon'ble Administrators appointed by this court. The third respondent has also passed the proceedings dated 25.01.2021 approving / sanctioning the payment of salary to the wife petitioner for the period from 22.07.2017 to 31.07.2018. However, nothing progressed.



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The learned counsel further submitted that the wife of the petitioner was permitted to retire on attaining the age of superannuation on 31.07.2018, and she died on 27.04.2021. Therefore, the learned counsel prayed for appropriate direction to the respondent authorities for payment of salary for the period in dispute and settlement of retirement benefits.

4. Heard the learned counsel appearing for the respondents and also perused the materials available on record.

5. There is no dispute with regard to the working of the petitioner's wife as Headmistress in the fifth respondent school till 21.07.2017. By order dated 21.07.2017, she was transferred from the fifth respondent school, which was challenged by the petitioner by filing WP.(MD)Nos. 13749 of 2017, in which, this court passed the following order on 24.07.2017:

“The learned counsel appearing for the respondent, after heavy arguments, sought time to file a detailed counter affidavit.

He has also fairly agreed that the teachers who are all transferred will not be disturbed till further orders.

Post on 01.08.2017, along with WP(MD)Nos.13371/2017, 13443/2017 and 8539/2017. Till then, the petitioners need not be disturbed.”

Despite the aforesaid order, she was not allowed to work as Headmistress and she was staying in the school premises, till her retirement i.e., on



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31.07.2018.

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6. It is further seen that on complaint by the petitioner, the learned Administrators appointed by this court, passed an order on 22.11.2019 in favour of the petitioner, the operative portion of which reads as follows:

"Hence, it is beyond doubt that the complainant is entitled to serve in the very same school where from she was transferred i.e., in Mary Sargent Girls Higher Secondary School, Palayamkottai. She having been retired on 31.07.2018, the Management shall claim her salary payable from 22.07.2017 and on such claim being made, the Educational Authority shall sanction the same till 31.07.2018. The Correspondent of Mary Sargent Girls Higher Secondary School, Palayamkottai is directed to claim salary bill of the complainant as he has served as per the High Court order within a period of two weeks from the date of receipt of copy of the proceedings. The complainant is entitled to get all retirement benefits as she has retired from the service on 31.07.2018. It is made clear that the direction is not complied with by anyone, it is open to the complainant to file contempt of the High Court order above referred and agitate her claim. The complaint is disposed."

Thus, the petitioner is entitled to salary for the period from 22.07.2017 to 31.07.2018 and also retirement benefits. Subsequently, the third respondent has also issued the proceedings dated 25.01.2021, approving / sanctioning the payment of salary for the disputed period and other benefits payable to the petitioner's wife. Thereafter, the fifth respondent raised bill towards salary and other benefits to the respondent authorities. However, the same has not been considered, till date, by the respondents 2 and 3. Such sort of practice adopted by the respondent authorities



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cannot be countenanced by this court.

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7. Therefore, this court directs the respondent authorities to implement the order of the Hon'ble Administrators dated 22.11.2019 and the sanction order dated 25.01.2021 passed by the third respondent and release the salary for the period from 22.07.2017 to 31.07.2018 and other benefits payable due to the petitioner's wife, in favour of the petitioner, immediately, in any event, not later than eight weeks from the date of receipt of a copy of this order.

8. With the above directions, the writ petition stands disposed of.
No costs. Consequently, connected miscellaneous petition is closed.

16.12.2022

Index : Yes/No

Internet : Yes/No

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To

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of Tirunelveli Diocese,
(Appointed by Hon'ble High Court, Madras)
CSI Tirunelveli Diocese, Tirunelveli - 627 002.



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R.MAHADEVAN, J.

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2. The Chief Educational Officer
Tirunelveli District,
Kokkirakulam, Tirunelveli – 627 009.
3. The District Educational Officer,
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Govt. School Campus,
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