



W.P.(MD) No.2025 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

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V.B.Ramasamy

... Petitioner

-VS-

1.The Chief Educational Officer,
Virudhunagar District
Virudhunagar.

2.The Headmaster
Government High School
Thulukkapatti
Virudhunagar District.

... Respondents

(2nd respondent has been impleaded
vide order dated 06.12.2022 in WMP(MD)
No.3049/2020)

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 1st respondent herein in his proceedings in O.Mu.No.9798/E1/2019 dated 27.01.2020 and consequential relieving order issued by the 2nd respondent in her proceedings in Na.Ka.No.33/2020 dated 31.01.2020 and



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quash the same and direct the respondents to allow the petitioner to continue in service on re-employment basis till the end of academic year ie., 31.05.2020 with all monetary and consequential benefits.

(Cause title has been amended

vide order dated 06.12.2022 in WMP(MD)

No.3050/2020)

For Petitioner : Mr.K.Hema Karthikeyan

For Respondents : Mr.T.Amjad Khan
Government Advocate

ORDER

Challenging the impugned order of the 1st respondent dated 27.01.2020 and consequential relieving order issued by the 2nd respondent dated 31.01.2020 and for a consequential direction to the respondents to allow the petitioner to continue in service on re-employment basis till the end of academic year ie., 31.05.2020 with all monetary and consequential benefits, this writ petition has been filed.

2.It is the case of the petitioner that the petitioner was selected and appointed as B.T.Assistant (Maths) in the year 2006 through Teachers Recruitment Board and the petitioner was working as B.T.Assistant in



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Panchayat Union Middle School, Thulukkapatti, Virudhunagar District.

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However, the petitioner's retirement falls on 31.01.2020 and as a Teacher, who is entitled to serve till the end of academic year ie., till 31.05.2020, the petitioner is eligible to serve till 31.05.2020. Therefore, the petitioner sent a representation to the respondent Department on 06.12.2019 for extension. However, the said request has been rejected by the 1st respondent on the ground of availability of surplus teachers. Since the same is illegal and arbitrary, the petitioner is before this Court with this writ petition.

3. The learned counsel for the petitioner would submit that the decision of the first respondent in rejecting the representation of the petitioner is illegal. He would further submit that there are no surplus Teachers in the school and hence, the petitioner is entitled to be considered for re-employment till the end of academic year and hence, interference is warranted.

4. Per contra, the learned Government Advocate would submit that the issue arises in this case is no longer res integra in view of the



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decision rendered in WA Nos.259 of 2020 etc. batch dated 10.12.2021, wherein it has been held that in view of G.O.Ms.No.261, School Education Department dated 20.12.2018, the Government has taken a policy decision to the effect that the teachers who attained superannuation during the middle of the academic year, will not be entitled to re-employment, when there are surplus teachers. Accordingly, the case of the petitioner is rightly rejected by the respondents and no interference is warranted to the decision taken by the respondents and prays for dismissal of the writ petition.

5. It is seen that the petitioner retired after serving as B.T.Assistant (Maths) nearly for a period of fourteen years. It is pertinent to note that as per G.O.Ms.No.261, School Education Department dated 20.12.2018, the Government has taken a policy decision to the effect that the Teachers who attained superannuation during the middle of the academic year, will not be entitled to re-employment, when there are surplus teachers.

6. When similarly placed persons approached this Court by filing



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writ petitions, this Court directed the respondent Government to permit the petitioners therein to work till the completion of the academic year. However, challenging the same, when the authorities filed writ appeals, a Division Bench of this Court, vide judgment dated 10.12.2021, has held as follows:

“23.The Coordinate Bench of this Court in W.A.No.107 of 2020 dated 16.03.2021 has categorically held that G.O(Ms).No. 261, School Education Department, dated 20.12.2018, the Government has taken a policy decision to the effect that the teachers who attained superannuation during the middle of the academic year, will not be entitled to reemployment, when there are surplus teachers. The Coordinate Bench has further held that the reemployment is not a matter of right and once the teacher attains the age of superannuation, the relationship between master and servant ceases. The Coordinate Bench has further held that the reemployment is a fresh employment and when a permission is sought to re-employ a Government teacher or a teacher of an aided institution, conditions will always be attached. We are in respectful agreement with the findings of the Coordinate Bench.

Therefore, the issue in hand is no longer res integra in view of the decision rendered by this Court in a batch of Writ Appeals in WA(MD) Nos.259/2020 etc., batch. In view of the same, the petitioner is not entitled to be



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considered for re-employment and accordingly, the writ petition fails and the same is accordingly dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

06.12.2022

Index : Yes
Internet : Yes/No

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M.DHANDAPANI, J.

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