



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

WEB COPY

W.A(MD)No.281 of 2022

against

WP(MD).No. 22547 of 2019

A.Muthu

.. Appellant/Petitioner

Vs

1.The Secretary,

School Education Department,
Fort St.George, Secretariat,
Chennai.

2.The Joint Director of School Education, (HSC)

Directorate of School Education,
Nungambakkam, Chennai.

3.The Chief Educational Officer,

Pudhukottai District,
Pudhukottai.

..Respondents/ Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 15.02.2022 made in W.P.(MD) No. 22547 of 2019.

Prayer in WP(MD). 22547 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a writ of certiorified mandamus to call for the records of the impugned order in Na.Ka.no.4823/A1/2019, dt 17.7.2019 passed by the 3rd respondent and quash the same and consequently direct the respondents to regularize the petitioners services from the date of the petitioners initial appontment on 08.7.2004 with consequential benefits

For Appellant : Mr.K.Jeyamohan

For Respondents : Mr.S.P.Maharajan,
Special Government Pleader

JUDGMENT

[Delivered by PARESH UPADHYAY, J.]

Challenge in this writ appeal is made to the order dated 15 February 2022 recorded on W.P(MD) No.22547 of 2019. This appeal is by the writ petitioner.



2. The petitioner had approached this Court with the prayer that his service should have been regularized from 08.07.2004 instead of 01.06.2006, which was ordered by the State at the relevant time. This petition was filed in the year 2019. While dismissing the writ petition, learned Single Judge *inter-alia* observed as under:

"7. Incidentally, this Court asked the learned counsel for the petitioner as to, what is the working hours of these teachers working in schools. It is stated that these teachers are working 14 hours per week. A week consists of 168 hours (7x24). Out of 168 hours, a P.G. Assistant is working 14 hours per week and drawing a salary of more than One Lakh. The salary has been paid from and out of the tax payers money. The responsibility and accountability attached to these teachers are far more higher than the employees working in private sectors. Teaching is a noble profession. Teachers are expected to maintain good conduct. The teachers, being the responsible persons in the society, imparting education to the children, their conduct in the society must be upto the mark and full devotion to duty is of paramount importance. Painfully, there are several instances now in the public domain that teachers are involving in many heinous offences, including sexual harassment of children studying in the schools. Many number of such cases are frequently reported in recent days. The Department of Education has to take effective measures to control the conduct of these teachers across the State of Tamil Nadu.

8. The decent salary paid to these teachers whether in commensuration with the performance of their duties and hours of duty are to be reviewed by the competent authorities of the Government for the purpose of enforcing work discipline in schools. Allotment of works are to be regulated.

9. Even during the pandemic situation, near about 4 crores employees lost their job. Many families lost their livelihood on account of several factors. Small industries are struggling to revive their business. Even under these conditions, the teachers are being paid full salary for about two years, though the schools were completely closed. In some States across the country, a portion of the salary was deducted from the government employees so as to provide assistance to the COVID affected people, who lost their regular income. Even such measures are not taken by the State of Tamil Nadu. Contrarily, throughout pandemic, the teachers are getting full salary without even attending the school or otherwise.

10. The Government of the day is expected to protect the public interest and the public money. The Government cannot waste the public money and the



judiciously and in the interest of public and at no circumstances, Government can spend money, which is not in consonance with the public welfare schemes. Therefore, a balancing approach is required. No doubt, these teachers are entitled for a decent salary. However, it is to be considered whether they are performing their duties in accordance with the rules in force and to the expectation to the parents and the students who all are studying in the school.

11. This Court is of the considered opinion that no doubt corrective measures are taken by the Government then and there. However, the measures are found to be insufficient to bring back work discipline in schools. The teachers, who all are working in the schools and their activities and conduct both inside and outside the schools are to be monitored by the appropriate authorities and periodical reports are to be submitted to the higher authorities for taking effective measures and actions."

3. Having heard learned advocates for the respective parties and having considered the material on record and keeping in view the point at issue in the writ petition we find that, the reasons recorded in the order under challenge, more particularly in para: 7 to 11 were not relevant for deciding the claim of the petitioner. According to us, those observations / directions are unwarranted and therefore the same need to be expunged from the impugned order.

4. We however find that, in any case, the case of the petitioner as pleaded in the writ petition filed in the year 2019 was, making some grievance with regard to perceived injustice to him in the year 2006. We find that, such a stale claim could not have been entertained in the writ jurisdiction in exercising powers under Article 226 of the Constitution of India.

5. The final conclusion of dismissing the writ petition, according to us, can not be said to be any error apparent on the face of the record, which may call for any interference in this intra-court appeal. This appeal is disposed of in above terms. No costs.

Sd/-

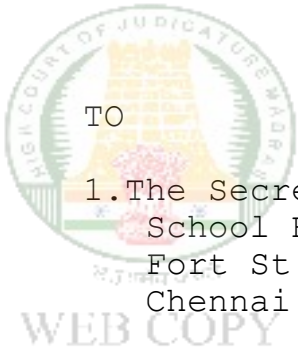
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Sub Assistant Registrar(CS)

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TO

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3.The Chief Educational Officer,
Pudhukottai District,
Pudhukottai.

+1 CC to M/s.K.JEYAMOHAN, Advocate (SR-14957[F] dated 28/03/2022)

+1 CC to M/s.SPL GP (SR-15092[F] dated 29/03/2022)

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KB(05.04.2022) 4P 6C