



W.P.(MD)No.6865 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.6865 of 2017

S.Ramar

... Petitioner

vs.

1. The District Elementary Educational Officer,
Tuticorin, Tuticorin District.

2. The Additional Assistant Elementary
Educational Officer, Sathankulam,
Tuticorin District.

3. The Secretary,
Sivagami Ammal Primary School,
Nariyankudiruppu,
Pothakalanvilai Post,
Sathankulam Taluk,
Tuticorin District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of ***Certiorarified Mandamus***, to call for the records relating to impugned proceedings issued by the 1st respondent herein in Moo.Mu.No. 1045/A2/2009, dated 25.05.2009 and subsequent impugned proceedings in



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O.Mu.No.2068/A2/2016 dated 24.01.2017, quash the same and further direct the 1st respondent herein to approve the petitioner's appointment as Secondary Grade Teacher in the 3rd respondent-school from the original date of appointment i.e., 16.04.2009 with salary and other monetary benefits.

For Petitioner : Mr.A.Ajith Geethan
For R-1 & R-2 : Mr.V. Om Prakash,
Government Advocate (Civil Side)
For R-3 : No appearance

ORDER

This Writ Petition has been filed to quash the impugned proceedings issued by the 1st respondent, dated 25.05.2009 in Moo.Mu.No.1045/A2/2009 and subsequent impugned proceedings, dated 24.01.2017 in O.Mu.No.2068/A2/2016, and also sought for further direction to the 1st respondent to approve the petitioner's appointment as Secondary Grade Teacher in the 3rd respondent-school from the original date of appointment i.e., 16.04.2009 with salary and other monetary benefits.



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2. The brief facts of the case as stated in the affidavit is that the petitioner was working as Secondary Grade Teacher in the 3rd respondent school which was recognized, aided non-minority school. Initially, the petitioner was appointed as Secondary Grade Teacher in the 3rd respondent school and the School has submitted necessary proposal to approve the appointment of the petitioner, w.e.f., 16.04.2009, however, the 1st respondent herein through the impugned order, dated 25.05.2009, granted approval only, w.e.f., 01.06.2009.

3. The grievance of the petitioner is that the 1st respondent ought to have granted approval to the petitioner's appointment, w.e.f., 16.04.2009, but, granted approval only from the beginning of the academic year i.e., 01.06.2009. The 3rd respondent school has submitted a representation, dated 15.09.2009 to the 1st respondent, requesting to refix the approval from the original date of appointment. However, the 1st respondent had returned the proposal vide, impugned proceedings, dated 24.01.2017, stating that there is no rule to refix the approval of appointment from the original date of appointment. Again, the 3rd



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respondent school has resubmitted the proposal along with 22 teachers, where the teachers were appointed on 29.04.2014 and it were approved from the date of their initial appointment i.e., on 29.04.2014. Inspite of the order passed to the similarly placed persons, the 1st respondent cannot arbitrarily fix the petitioner's appointment date as 01.06.2009. Aggrieved by the same, the petitioner is before this Court seeking the above relief by way of filing this Writ Petition.

4. The respondents have filed a counter affidavit stating that the petitioner was appointed as per the rules in G.O.Ms.No.241 dated 29.10.2007 and G.O.Ms.No.4, School Education Department, dated 19.04.2004. The petitioner's appointment was approved from 01.06.2009 since it is a beginning of the academic year. The learned counsel appearing for the respondents further contended that the petitioner was appointed on 16.04.2009, subsequently, the school was under annual vacation, where the teachers will not be having any work. Therefore, the respondents have approved the petitioner's appointment from the date of beginning of the academic year, i.e., from 01.06.2009. The next contention that was raised by the respondents is that the writ petitioner has filed



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this writ petition belatedly, since the petitioner was appointed in the year 2009.

Hence, prays to dismiss the Writ Petition.

5. Heard Mr.A.Ajith Geethan, learned counsel appearing for the petitioner and Mr.V. Om Prakash, learned Government Advocate (Civil Side), appearing for the respondent Nos.1 & 2 and perused the records.

6. The learned counsel appearing for the petitioner submitted that the school is a non-minority school and after following the reservation policy, the school has conducted the selection process. Thereafter, the petitioner was selected on 16.04.2009. However, the respondents have failed to grant approval from the date of the original appointment thereby deprived the petitioner from receiving the service and monetary benefits.

7. The contention of the respondents is that, from the month of April to May, the school will be under Annual Holiday. The teachers will not be having any work and any appointment will grant only from the beginning of the



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Academic Year, i.e., 01.06.2009. The respondents have submitted that the petitioner has approached this Court belatedly and therefore, the petitioner is not entitled any relief as sought for in the Writ Petition.

8. The learned counsel appearing for the petitioner submitted that, after reconstructing the Department, now the 1st respondent i.e. the District Elementary Educational Officer, is at Tiruchendur and the 2nd respondent i.e. the Additional Assistant Elementary Educational Officer is renamed as Block Education Officer, Sathankulam.

9. Considering the rival claim and submissions, this Court is of the considered opinion that the petitioner has approached this Court belatedly and hence, he is not entitled any monetary benefits, however, the approval shall be granted only for the service benefits alone. Therefore, the respondents are directed to pass an order of approval from the date of initial appointment i.e., only for the sake of service benefits. It is made clear that the petitioner is not entitled any monetary benefits for the period from 16.04.2009 to 01.06.2009. The said



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exercise shall be completed within a period of four weeks, from the date of receipt of the copy of the order.

10. With the aforesaid observations, this Writ Petition is disposed.

No Costs. Consequently, connected miscellaneous petition is also closed.

Index : Yes / No

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Internet : Yes

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To

1. The District Elementary Educational Officer,
Tiruchendur.
2. The Block Educational Officer,
Sathankulam.



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S.SRIMATHY, J

ksa

Order made in
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