



W.P(MD)No.8426 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.07.2022

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THE HONOURABLE MR.JUSTICE G. CHANDRASEKHARAN

W.P(MD).No.8426 of 2017

and

W.M.P(MD).Nos.6419 and 6420 of 2017

A.Michael Rajan,

: Petitioner

Vs

1. The State of Tamilnadu,
Represented by its Secretary,
Department of School Education,
Fort St.George,
Chennai-600 009.

2. The Director of School Education,
College Road,
Chennai-600 006.

3. The Chief Educational Officer,
Kanyakumari District at Nagercoil,
Kanyakumari District-629 001.

4. The District Educational Officer,
Nagercoil, Kanyakumari District.



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5. The Correspondent,
St.Antonys Higher Secondary School,
Azhagappapuram-629 401, Kanyakumari
District.

: Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the fourth respondent District Educational Officer, Nagercoil, in Na.Ka.No.3636/A4/2016, dated 06.09.2016, quash the same and further direct the fourth respondent District Educational Officer to approve forthwith the appointment of the petitioner as BT Assistant in Tamil in the fifth respondent school from 23.01.2003 to 31.05.2006.

For Petitioner : M/s.S.Xavier Rajini,

For R1 to R4 : Mr.V.Omprakash,

Government Advocate (Crl.Side)

For R5 : No Appearance



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ORDER

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This writ petition has been filed in the nature of Mandamus, seeking to quash the proceedings issued by the fourth respondent/District Educational Officer, Nagercoil, in Na.Ka.No.3636/A4/2016, dated 06.09.2016 and consequently, to direct the fourth respondent/District Educational Officer to approve forthwith the appointment of the petitioner as BT Assistant in Tamil in the fifth respondent school from 23.01.2003 to 31.05.2006.

2.The learned Counsel appearing for the petitioner submitted that the petitioner was appointed as BT Assistant (Tamil) in the fifth respondent school, on 23.01.2003. The said vacancy was created by the promotion of the incumbent R.Roseline as PG Assistant (Tamil) on 23.01.2003. It appears that the school had submitted a proposal to the District Educational Officer, requesting approval of the petitioner's appointment as BT Assistant (Tamil). But, the District Educational Officer directed the school to submit a proposal after obtaining consent of R.Roseline as PG Assistant (Tamil). While so, the fifth respondent/school cancelled the promotion of the said R.Roseline as PG Assistant (Tamil) to comply with the judgment and decree made in O.S.No.63



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of 2001 and A.S.No.92 of 2001. Then, R.Roseline filed a writ petition in W.P.No.22827 of 2003, before the Principal Bench of this Court and an order of stay was granted against the order passed on 02.06.2003. Though she had discharged her duty as PG Assistant (Tamil), the District Educational Officer had disbursed grant-in-aid towards her salary only in the cadre of BT Assistant (Tamil). For this reason, the District Educational Officer has not approved the petitioner's appointment as BT Assistant (Tamil) and had not disbursed grant-in-aid towards his salary. The interim stay granted in W.P.No. 22827 of 2003 was vacated and R.Roseline filed an appeal in W.A.No.3977 of 2003, before the Principal Bench of this Court and again, an order of interim stay was granted against the order passed on 02.06.2003. In the meanwhile, she attained the age of superannuation on 30.05.2006. Then, the petitioner requested the District Educational Officer to approve his appointment as BT Assistant (Tamil), atleast with effect from 01.06.2006 and disburse the grant-in-aid towards his salary, subject to the outcome of the decision pending in W.A.No.3977 of 2003. Accordingly, the petitioner's appointment was approved as BT Assistant (Tamil) with effect from 01.06.2006 and salary was disbursed to him. On 14.02.2008, this Court passed orders in W.A.No.3977 of 2003 and W.P.No.22827 of 2003, directing the authorities to sanction all



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the terminal benefits to the appellant therein/R.Roseline in the cadre of PG Assistant (Tamil). In pursuance of the order of this Court, the District Educational Officer had approved her promotion as PG Assistant (Tamil) w.e.f 23.01.2003 and disbursed the salary vide his proceedings in Mu.Mu.No. 1305/A2/2011, dated 15.04.2011. Subsequently, the petitioner was appointed as BT Assistant (Tamil) in the vacancy created on the promotion of R.Roseline as PG Assistant (Tamil) w.e.f. 23.01.2003. Since R.Roseline's promotion was subsequent to the legal proceedings, the appointment of the petitioner got delayed and he was not paid salary from 23.01.2003 to 31.05.2006. The petitioner met the District Educational Officer in person on 07.07.2011, 10.12.2012, 27.06.2013, 19.08.2014 and 11.07.2015 and requested to approve his appointment as BT Assistant (Tamil) w.e.f. 23.01.2003 to 31.05.2006 and disburse the grant-in-aid towards his salary. However, the petitioner's proposal was returned stating that his request cannot be considered for the reason that the petitioner's appointment was approved only w.e.f. 01.06.2006 as per the consent expressed by the petitioner vide proceedings in Na.Ka.No.3636/A4/2016, dated 06.09.2016. Therefore, the petitioner left with no other option, has filed this writ petition.



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3.In response, the learned Government Advocate appearing for respondents 1 to 4 submitted that the petitioner's appointment was approved as per his request to the District Educational Officer and that his appointment may be approved w.e.f. 01.06.2006. Therefore, it is not open to the petitioner to claim that the approval shall be made from to the date of his initial appointment on 23.01.2003. Not only that this petition had been filed with a delay i.e., after a period of six years, challenging the proceedings, dated 15.04.2011. The order impugned is in accordance with law and there is no illegality or infirmity. Hence there is no merit in this petition and thus pleaded to dismiss this petition.

4.Considered the rival submissions and perused the records.

5.It is not in dispute that the said R.Roseline worked as BT Assistant (Tamil) in the fifth respondent school and she was promoted as PG Assistant (Tamil) on 23.01.2003. It is also not in dispute that in the vacancy created by the promotion of R.Roseline, the petitioner was appointed as BT Assistant (Tamil). It is admitted in the counter that the petitioner was appointed as BT



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Assistant (Tamil) in the vacancy created on the promotion of R.Roseline as PG Assistant (Tamil) and also admitted the fact R.Roseline's promotion as PG Assistant (Tamil) was cancelled by the fifth respondent to comply with the judgment and decree made in O.S.No.63 of 2001 and A.S.No.92 of 2001. Then, she filed a writ petition in W.P.No.22827 of 2003 and obtained an order of interim stay. When the interim stay was vacated, she filed an appeal in W.A.No.3977 of 2003 and again obtained an order of interim stay against the order of cancellation, dated 02.06.2003. Then, the appeal in W.A.No.39977 of 2003 and W.PNo.22827 of 2003 came to be disposed of by a common order, dated 14.02.2008. After considering the rival contentions, this Court directed the sixth respondent therein to pay all the terminal benefits to the appellant/petitioner therein, namely R.Roseline. It is seen from the counter affidavit of the fourth respondent that R.Roseline was disbursed with salary from 23.01.2003 to 30.05.2006 in the cadre of PG Assistant (Tamil), after adjusting the salary given to her in the cadre of BT Assistant (Tamil). It is also admitted that the petitioner was not paid salary from 23.01.2003 to 30.05.2006, though he served as BT Assistant (Tamil). The petitioner exercised his option of regularizing his appointment/approval of appointment w.e.f. 01.06.2006 subject to the outcome of the decision pending in W.A.No.



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3977 of 2003. Now, the appeal in W.A.No.3977 of 2003 had been disposed of in favour of R.Roseline and her promotion as PG Assistant (Tamil) was approved w.e.f. 23.01.2003. She was also paid with salary as PG Assistant (Tamil) from 23.01.2003, till the date of her retirement.

6. Therefore, this Court is of the considered view that the petitioner having been appointed as BT Assistant (Tamil) in the vacancy created by the promotion of R.Roseline as PG Assistant (Tamil), is entitled for approval of his appointment w.e.f. 23.01.2003 and all the monetary benefits from 23.01.2003 till 31.05.2006.

7. In such view of the matter, the impugned proceedings issued by the fourth respondent is hereby quashed and the third and fourth respondents are directed to approve the petitioner's appointment w.e.f. 23.01.2003 and further directed to pay all the monetary benefits from 23.01.2003 to 31.05.2006, within a period of eight weeks from the date of receipt of a copy of this order.

8. Accordingly, this writ petition is allowed. No costs. Consequently,



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connected miscellaneous petitions are closed.

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Index : Yes / No

Internet : Yes/ No

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To

1. The Secretary,
Department of School Education,
Fort St.George,
Chennai-600 009.

2. The Director of School Education,
College Road,
Chennai-600 006.

3. The Chief Educational Officer,
Kanyakumari District at Nagercoil,
Kanyakumari District-629 001.

4. The District Educational Officer,
Nagercoil, Kanyakumari District.



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G. CHANDRASEKHARAN, J.

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