



WEB COPY

W.P.No.2185



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.No.21854 of 2011
and M.P.Nos.1 & 2 of 2011

A.Bakthavatchalam
BT Assistant (History),
Government Higher Secondary School,
Naiyanacherivu, Vellore District.

...Petitioner

vs.

1.The Director of School Education,
College Road, Chennai – 600 006.

2.The Chief Educational Officer,
EVR Maniyammai Complex,
Thathuvachery, Vellore.

3.The Headmaster,
Government Higher Secondary School,
Naiyanacherivu, Vellore District.
Vellore.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in connection with the impugned order passed by him in Na.Ka.No.4245/A3/2011 dated 26.08.2011 and quash the same and further



Assistant (History) in the 3rd respondent school till the end of the academic year namely 31.05.2012 with all service and monetary benefits.

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For Petitioner : Mr.M.Muthappan

For Respondents : Mr.A.M.Ayyadurai
Government Advocate

ORDER

The Writ Petition has been filed challenging the order of rejection passed by the second respondent in rejecting the request of the petitioner to extend the services from 01.09.2011 till the end of Academic Year viz., 31.05.2012 as he had attained the age of Superannuation on 31.08.2011.

2.Heard Mr.M.Muthappan, learned counsel appearing for the petitioner, and Mr.A.M.Ayyadurai, learned Government Advocate appearing for the respondents.

3.The case of the petitioner is that he is a Degree holder in Arts as well as in Education and had registered his name in the Employment Exchange. Considering his Employment Exchange seniority, he was appointed as a BT Assistant (History) by the orders of the Joint Director of School Education on 03.09.2010 in the third respondent school. The petitioner had reportedly joined duty on 06.09.2010. The petitioner had attained the age of superannuation on



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4.Learned counsel for the petitioner would submit that the petitioner had made a request to extend the services till the end of Academic year viz., 31.05.2012. In fact, the petitioner had submitted his application as early as on 09.07.2011. The second respondent by the impugned proceedings dated 26.08.2011 had rejected the request of the petitioner by holding that such extension can be granted only to the persons who have completed 10 years of service. He would further submit that such a discrimination is wholly without any *intelligible differentia* and therefore, he would submit that the second respondent had arbitrarily rejected the request of the petitioner. Therefore, he would submit that the rejection order passed by the second respondent is wholly illegal and if the rejection order is set aside, the petitioner would be entitled to monetary benefits till the end of the Academic Year.

5.Countering his arguments, Mr.A.M.Ayyadurai, learned Government Advocate appearing for the respondents would submit that the issue of extension of service was granted by the first respondent in its proceeding dated 13.08.2008. As per the said proceedings, it was decided to extend the services of a tenured employee i.e. who have completed 10 years of service and who have reached the age of superannuation during the middle of the Academic Year to be extended till 31st of May of that Academic Year. He would submit that the petitioner had been only appointed in the year 2010 and had reached age of



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superannuation in August 2011, his request to extend the services from 01.09.2011 to 31.05.2012 cannot be considered in view of the orders passed by the first respondent. He would further submit that the contention of the petitioner's counsel of *intelligible differentia* cannot be considered to this Writ Petitioner since the petitioner had not challenged the order passed by the first respondent, therefore, he would submit that there is no merits and would seek dismissal of this Writ Petition.

6.I have considered the rival submission made by the respective counsel appearing on either side and perused the materials available on record.

7.It is an admitted case that the petitioner had been appointed through the Employment Exchange in the year 2010 and that he had attained superannuation in the year August 2011. The first respondent in its proceedings dated 13.08.2008 had issued permission to extend the services of a Teacher who had put in 10 years of service and who attained age of superannuation during the middle of the Academic Year to be extended till the end of that Academic Year. The petitioner had only put in 11 months of service. Therefore, he is not entitled to seek extension of service as he has not governed under the orders issued by the first respondent.



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8.As rightly pointed out by the learned Government Advocate, the petitioner had not challenged the Communication of the first respondent dated 13.08.2008.

9.In fine, the Writ Petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

22.11.2023

Index: Yes/No
Speaking order: Yes/No
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K.KUMARESH BABU, J.

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To

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