



W.P.No.9889 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2023

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

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O.K.Mani

Versus

... Petitioner

1. The Director of Elementray School Education,
DPA Complex, College Road,
Chennai 600 006.
2. The Chief Educational Officer,
Thiruvallur District, Thiruvallur.
3. The District Educational Officer,
Thiruvallur Educational District,
Thiruvallur.
4. The Block Development Officer,
Pallipet Union,
Thiruvallur District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the respondents to allow the petitioner for re-employment till the end of academic year on superannuation on par with other similarly placed teachers working in the School Education Department, based on the application submitted by the



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petitioner dated 25.02.2023, with all consequential and other attendant benefits, within a time frame to be fixed by this Court.

For petitioner : Mr.S.Nedunchezhiyan
For Respondents : Mrs.R.Anitha
Special Government Pleader

ORDER

This Writ Petition is filed seeking for issuance of Writ of Mandamus, to direct the respondents to allow the petitioner for re-employment till the end of academic year on superannuation on par with other similarly placed teachers working in the School Education Department, based on the application submitted by the petitioner dated 25.02.2023, with all consequential and other attendant benefits, within a time frame to be fixed by this Court.

2. The case of the petitioner is that the petitioner was initially appointed as Secondary Grade Teacher in Elementary Education and posted at Panchayat Union Primary School, VEDIYENKADU, on 21.09.1996 and subsequently, he was promoted as Headmaster in Panchayat Union Primary



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School, Vengalrajakuppam, Pallipet Union on 08.03.2010 and thereafter, he was promoted as B.T.Assistant (Social Science) in the year 2013 and presently, he is working as B.T.Assistant (Social Science)in Panchayat Union Middle School, Podaturpet, Pallipet Union.

3. According to the petitioner, he retired from service during the middle of the academic year i.e., on 30.06.2022, and he has right to continue on re-employment till the end of the academic year, as per the Government Order, in G.O.Ms.No.1369, Education Department, dated 25.08.1973, wherein, the teachers who retire from service during the middle of the academic year, are entitled to continue in service till the end of the academic year on superannuation and they have right to continue on re-employment till the end of the academic year conferred on the teachers, which has already been considered by this Court on in *W.A.No.1179 of 1993 [S.Sundaram vs. Secretary, CSI Diocese of Madras]* and confirmed by the Hon'ble Supreme Court of India, and consecutively followed by this Court in a catena of decisions. The teachers, who retire from service in the middle of the academic year, are allowed to continue in service till the end



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of the academic year on satisfaction of two conditions, namely that the character and conduct of the teachers should be satisfactory and should be physically fit to continue in service. The petitioner was working as B.T Assistant (History) and since he was due to retire from service on 30.06.2022, he sent a representation to the third respondent, dated 28.06.2022, seeking re-employment till the end of the academic year as per the Government Order in G.O.Ms.No.115, School Education Department, dated 28.06.2022, whereas, the fourth respondent has issued a letter dated 30.06.2022, stating that the petitioner was initially appointed as Secondary Grade Teacher on 23.09.1996 and his date of birth is 10.06.1962 and therefore, he had completed the age of 60 years on 30.06.2022 as per Government Order in G.O.Ms.No.92, P&AR Department, dated 13.09.2011. The petitioner was relieved from service as on 30.06.2022 from the post of B.T.Assistant (Social Science) and hence his representation for re-employment was rejected.

4. The learned counsel for the petitioner submitted that the Headmaster of Panchayat Union Middle School, Podaturpet, submitted a



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proposal on 30.06.2022 along with Certificate of physical fitness for re-employment on superannuation, recommending his re-employment by stating that he is not a surplus teacher working in the School, and that there are 134 students studying both in Tamil and English Medium sections from Standard 6 to 8 and had given time table for taking 28 periods every week to the students and based on the need of teachers, the Headmaster requested to grant re-employment of the petitioner till the end of the academic year and in this regard, in Pallipet Block, two teachers who have attained superannuation, have been given benefit of re-employment till the end of academic year and the petitioner has been discriminated without an order of re-employment, notwithstanding the fact that he is not a surplus teacher and that the number of other similarly placed teachers are given re-employment till the end of the academic year.

5. In these circumstances, the petitioner filed a Writ Petition in W.P.No.18589 of 2022, challenging the said order of rejection by the fourth respondent and this Court has passed an order by making it clear that the petitioner does not come into the category of surplus teacher and therefore,



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he is entitled for re-employment and on that basis, issued directions to the respondents to consider the petitioner's claim dated 30.06.2021 along with the proposal submitted by the Headmaster in the light of G.O.Ms.No.115, dated 28.06.2022. Even though the Court has passed an order dated 28.07.2022, the fourth respondent was not given any re-employment to the petitioner, whereas, the fourth respondent again issued an order dated 10.08.2022, by narrating the entire service details by stating that as per EMIS as on 01.08.2021, the students' strength is 135 and as on 30.06.2022, the students' strength is 117 and therefore, one B.T.Assistant post is surplus and the petitioner being the junior most B.T.Assistant (Social Science), he cannot be granted re-employment on superannuation and that the order suffers an error apparent on the face of the record that he is not a surplus teacher working in the Panchayat Union Middle School, Podaturpet and the students' strength was 112 in the year 2019, and it was subject to deployment, whereas, based on the proposal, the fourth respondent issued orders on 07.08.2019, stating that the service of the petitioner is required, since the school is conducting classes in two languages and that the petitioner cannot be considered as surplus teacher, but however, the order



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has been passed only to reject the claim of the petitioner without any valid reason. In these circumstances, the petitioner filed W.P.No.25147 of 2022, challenging the order of the fourth respondent, dated 10.08.2022 and the same was pending before this Court and during the pendency of the above W.P, the petitioner submitted further representation on 25.02.2023 to the respondents for re-employment till the end of the academic year, as per the above said G.O.Ms.No.115, whereas, the respondents have not passed any orders till date, and hence, the petitioner has filed this present Writ Petition.

6. On going through the averments made in the said petition as well as the typed set of papers, and the submissions of the learned Special Government Pleader that, when he attained superannuation on 30.06.2022, the petitioner's case was already considered in detail and rejected by the Government, the petitioner cannot seek for re-employment, as the students' strength is less and he has to be treated as a surplus teacher. Surplus teacher cannot be re-employed and accordingly, the impugned order has been passed in Na.Ka.No.371/அ1/2022, dated 10.08.2022, wherein, it had been clearly stated that the petitioner attained superannuation on 30.06.2022 and



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he has been relieved from the service on 30.06.2022 as per G.O.Ms.No.92, P&AR Department, dated 13.09.2011 and by Government Letter No.593235, dated 27.04.2022.

7. According to the learned Government Pleader EMIS statistics for Standard 6th to 8th would show that there are 134 children but at present, i.e., as on 30.06.2022, there are only 117 and hence the total permitted teachers' strength will be one Headmistress and four B.T.Teachers alone and accordingly, one B.T teacher or graduate teacher has been found to be surplus.

8. Accordingly, the petitioner is not entitled for re-employment, as he is already a surplus teacher when he was retiring from his service. Already the petitioner's case was rejected on 30.06.2022. The petitioner was retired from service and now the present writ petition has been filed in the year 2023 at the fag end of March 2023 and it is also a fag end of the academic year and already, the exams are conducted in schools and there is



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no possibility of the petitioner to take classes for the students from 6th to 8th

Standard and there is no point to consider his case.

9. Accordingly, the Writ Petition is dismissed. No order as to costs.

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

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To

1. The Director of Elementary School Education,
DPA Complex, College Road,
Chennai 600 006.
2. The Chief Educational Officer,
Thiruvallur District, Thiruvallur.
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V.BHAVANI SUBBAROYAN, J.

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