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W.P. No. 10655 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. No. 10655 of 2023
and
W.M.P. Nos. 10582 and 10583 of 2023**

Dr. R.P.Subbulakshmi

... Petitioner

-VS-

1 The Commissioner
Directorate of School Education
DPA Complex, College Road
Chennai 600 006.

2 The Chief Educational Officer
Thiruvallur District, Thiruvallur.

3 The District Educational Officer
Ponneri Educational District
Ponneri 601 204, Thiruvallur District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order issued by the 2nd respondent in Na.Ka. No. 5146 /Aa6 / 2022 dated 16.09.2022 and to quash the same and consequently direct the respondents to allow the petitioner on re- employment on superannuation till the end of academic year as per G.O. Ms. No.115 School Education Department dated 28.06.2022 on par with other similarly placed teachers working in the school Education Department with all consequential and other attendant benefits.



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For Petitioner : Mr. S.Nedunchezhiyan
For Respondents : Mr. B.Vijay
Additional Government Pleader

ORDER

Heard Mr. S.Nedunchezhiyan, Learned Counsel for the Petitioner and Mr. B.Vijay, Learned Additional Government Pleader, who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Government of Tamil Nadu in G.O. Ms. No.1369, Education Department, dated 25.08.1973, has permitted re-employment of teachers, who retire from service during the middle of the academic year to continue in service till the end of that academic year with the object of ensuring that such vacancy created does not affect the students, who have to appear for the annual examination at the end of that academic year. In other words, the purport of that Governmental Order is actually for the benefit of the students and does not intend to create any inviolable right of re-employment to the concerned teacher till the end of academic year, though the eligible amount of full salary has to be paid during that period after deducting the pension amount payable from the date of his attainment of superannuation.



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3. The Petitioner, who was working as Head Master of Government Higher Secondary School, Ramapuram, Chennai, had attained the age of superannuation on 31.07.2022. The benefit of re-employment was not extended to her by Proceedings in Na. Ka. No. 5146/Aa6/2022 dated 30.07.2022 sent by the Second Respondent and she was relieved from service with effect from 31.07.2022, though it is claimed by her that the said order had been communicated to her through e-mail only on 05.08.2022. The Petitioner had challenged the said order in the Writ Petition in W.P. No. 21232 of 2022, which was disposed by order dated 23.08.2022 holding that the Second Respondent had not assigned any reason for rejecting her claim for continuance in service till the end of the academic year and as its consequence, the said order was quashed and the Second Respondent was directed to consider the representation dated 05.07.2022 made by her and pass appropriate orders on merits and in accordance with law after affording an opportunity to her, within a period of 8 weeks from the date of receipt of its copy. In furtherance to the said order passed by this Court, the Second Respondent by Proceedings in Na.Ka.No.5146/Aa6/2022 dated 16.09.2022, rejected the claim of the Petitioner for re-employment in service till the end of the academic year. Aggrieved thereby, the Petitioner has filed this Writ Petition on 31.03.2023 challenging



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that order and sought for consequential benefits without any explanation for not

approaching the Court immediately after the said order had been passed.

4. As already pointed out, the re-employment of teachers, who attain the age of superannuation in the middle of an academic year, is meant to benefit the students to be taught till the end of that academic year so as to enable them to effectively appear in the annual examination conducted at its end. The Petitioner, who has been relieved from service with effect from 31.07.2022 has received the impugned order dated 16.09.2022 rejecting her claim for re-employment, but has waited till the fag end of the academic year to assail it, cannot be entitled to the relief of monetary benefits without having performed her duties as teacher during that period, even if the impugned order is ultimately set aside by the Court. This view taken is fortified by the principles laid down by the Hon'ble Supreme Court of India in *Ajaib Singh -vs- Sirhind Co-operative Marketing cum Processing Service Society Limited* [(1999) 6 SCC 82] that backwages could be denied for the period of delay attributable to the concerned employee in seeking legal remedy. Moreover, in view of the apparent indolent conduct of the Petitioner, no prejudice has been caused to her by the denial of re-employment as she would be receiving her pensionary benefits from the date of her superannuation from service, which would have to be absorbed



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in the monetary emoluments that she would be entitled to derive on re-employment even if she had made herself available for work during that period.

In that view of the matter, it would be futile to delve into the merits of the correctness of the impugned order in this belatedly prosecuted Writ Petition.

5. In the result, the Writ Petition, which does not deserve to be entertained on account of laches, is dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

06.04.2023

kst

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 31.07.2023.

To

- 1 The Commissioner
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P.D. AUDIKESAVALU, J.

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