



WEB COPY



W.P.No.14704 of 2021

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.14704 of 2021

and

W.M.P.Nos.15604 and 15605 of 2021

M.Jayabalan

.. Petitioner

Vs.

1.The Principal Secretary to the Government,
Department of School Education,
Secretariat, Chennai – 600 009.

2.The Director of School Education,
Chennai – 600 006.

3.The District Chief Educational Officer,
Villupuram,
Villupuram District.

... Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India prayed for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order of the 1st respondent vide Government Letter (Standing) No.59/Pa.Ka.3(1)/2021 dated 26.02.2021 and consequent order of the 3rd respondent in reference No.Na.Ka.No.10511/A4/2009 dated 26.03.2021 and quash the same and consequently direct the respondents 1 to



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3 to consider entreaty of the petitioner to relax the educational qualification and regularise his services from October 2000 and grant the retirement benefits to the petitioner. (Prayer amended vide order dated 01.08.2022 made in W.M.P.No.10033/2022 in W.P.No.14704/2021).

For Petitioner : Mr.S.Ayyadurai
for Mr.K.Balaji

For Respondents : Mr.T.Arunkumar
Government Advocate

ORDER

This petition has been filed challenging the order of the first respondent vide Government Letter (Standing) No.59/Pa.Ka.3(1)/2021 dated 26.02.2021 and consequent order of the 3rd respondent in reference No.Na.Ka.No.10511/A4/2009 dated 26.03.2021 and for a consequential direction to the respondents 1 to 3 to consider the prayer of the petitioner to relax the educational qualification and regularise his services from October 2000 and grant the retirement benefits to the petitioner.



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2. The petitioner was a Teacher in a Government School at Seerpathanallur in Villupuram District. He worked as a Technical Instructor in Drawing and thereafter, he joined St. Columba Higher Secondary School at Chengelpattu on 01.05.1988. Subsequent to the completion of the said advanced course, the petitioner registered with District Employment Office at Villupuram for employment with the said advanced skill certificate. The respondents employed the petitioner through the channel of District Employment Office and he was posted at Government Higher Secondary School at Seerpathanallur in Villupuram District and he is serving there from 23.12.1996. Despite the petitioner is technically qualified for the post in respect of his educational qualification, he has completed SSLC in revised pattern only during October 2000, (i.e.) after joining as a drawing teacher in the Government school.



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2.1. The third respondent issued a Show Cause Notice on 25.04.2016 as to why the petitioner should not be dismissed from service, since he had not passed SSLC on the date of his appointment (i.e.) on 23.12.1996.

2.2. The said notice was challenged by the petitioner by filing W.P.No.17924 of 2016 and in which an order has been passed to consider the representation of the petitioner on the observation about the rejection for regularising the services at the verge of retirement. Thereafter, the representation of the petitioner was considered and on 26.02.2021 proceedings have been issued by rejecting the representation of the petitioner. The said order was challenged in this writ petition.

3. Heard the learned counsel for petitioner and the learned Government Advocate appearing for respondents.



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cause notice was issued, the petitioner had passed SSLC. In fact, the petitioner had passed SSLC during October, 2000 itself. Even after respondents came to know that the petitioner has not completed SSLC at the time of joining, his services in his capacity as Drawing Teacher were availed.

8. Relaxation has already been given to one Nagaraj, who came to be appointed as a temporary staff under Section 10a(i) of Tamil Nadu State and Subordinate Services Rules, 1955. This petitioner is a permanent staff and hence it is claimed that his representation ought to have been considered.

9. It is true that petitioner ought not to have suppressed the fact that he has not passed SSLC at the time of joining. But he is not recruited for any clerical assignment but for a technical teaching. The respondent Government has discretion to relax the Rules in some extraordinary circumstances, which in my opinion has arisen now. The petitioner's services were availed by the Government at least for decades. Though it is correct to say on the side of the



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respondents that the essential requirement for appointment ought to have been complied, the Government was silent for 20 years and it is racked up as an issue at the verge of retirement.

10. In all fairness the respondents could have exercised their discretion to relax the qualification, by considering the extraordinary circumstances involved in this case. However, it is made clear that the petitioner cannot claim any arrears of salary by claiming Selection Grade or Special Grade pay.

11. With the above observations and directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

09.10.2023

Index : Yes / No

Speaking / Non-speaking order

Neutral Citation : Yes / No

rsi



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To
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Chennai – 600 006.
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R.N.MANJULA, J.

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