



W.P.No.5455 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.5455 of 2021
and W.M.P.Nos.6055 of 2021

M.Mathews

...

Petitioner

/vs/

1. The State of Tamil Nadu,
Rep. by the Secretary to Government,
School Education Department,
Fort St. George,
Chennai – 600 009.
2. The Director of School Education,
DPI Complex,
College Road,
Chennai – 600 006.
3. The District Educational Officer,
Vridhachalam,
Cuddalore District.
4. The Headmaster and Correspondent,
Sacred Heart Higher Secondary School,
Iruppukurichi,
Vridhachalam Taluk,
Cuddalore District.



W.P.No.5455 of 2020

5. The Correspondent and Secretary,
St. Mary's High School,
Odiyathur Village & Post,
Thirukovilur Taluk,
Villupuram District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records relating to the impugned proceedings issued by the first respondent in Govt.Letter No.6588/Nee.Va.1(2)/2016-5, dated 07.10.2016 and quash the same to the extent in places the petitioner on the consolidated pay of Rs.4,000/- per month and denies approval to the petitioner's appointment w.e.f 01.07.2002, and further direct the 3rd respondent herein to approve the petitioner's appointment as Secondary Grade Teacher w.e.f. 01.07.2002 and place him on regular scale of pay as admissible for that post and release the differential pay, allowances and other attendant benefits from the said date forthwith.

For Petitioner ... Mr.K.Munusamy

For Respondents ... Mr.G.Nanmaran,
Special Govt. Pleader for R1 to R3

Ms.S.Amala Irudhaya for R4

No appearance for R5



W.P.No.5455 of 2020

ORDER

WEB COPY This Writ Petition has been filed to quash the order relating to the impugned proceedings issued by the first respondent in Government Letter No.6588/Nee.Va.1(2)/2016-5, dated 07.10.2016 and direct the 3rd respondent to approve the petitioner's appointment as Secondary Grade Teacher w.e.f. 01.07.2002 and place him on regular scale of pay and release the differential pay, allowances and other attendant benefits from the said date forthwith.

2. Mr.K.Munusamy, the learned counsel for the petitioner submitted that the petitioner was appointed with effect from 01.07.2002 as Secondary Grade Teacher at the fourth respondent school; thereafter the petitioner was given with a time scale of pay from 01.06.2006 to 30.06.2009 and subsequently he was employed at the fifth respondent school from 01.07.2009; the petitioner claims that he was not given with pay for the period between 01.07.2002 to 31.05.2003; since the petitioner's appointment is considered after 01.04.2003, he is not able to get the pension benefits and on 01.07.2002 he was appointed in the vacancy arose



W.P.No.5455 of 2020

due to the transfer of one Secondary Grade Teacher; hence the petitioner has filed this writ petition seeking to quash the impugned order of rejection of approval of his appointment and to grant him the arrears of pay.

3. Mr.G.Nanmaran, the learned Special Government Pleader, submitted that the petitioner has been appointed only on consolidate pay and his appointment was not a regular appointment for which no approval can be given; the petitioner had already filed a writ petition in W.P.No.114 of 2016 for seeking direction against the Government to grant approval for his appointment and in which a direction has been given for considering his request and to dispose it on merits; the representation of the petitioner was rejected for the reason that the petitioner's appointment will not fit into the category of granting approval.

4. Admittedly the petitioner was appointed with effect from 01.07.2002. On perusal of the appointment order dated 01.07.2002 it is stated that the petitioner has been appointed only on a consolidated pay of Rs.3,000/-. The Government has granted him time scale of pay on



W.P.No.5455 of 2020

humanitarian grounds by taking into consideration of various representations made by those people who have been appointed on consolidated basis. In this regard it is also brought to the attention of the Court that there is an earlier direction granted by this Court to consider them for granting regular time scale of pay. In the present case the petitioner was given with time scale pay from 20.02.2006.

5. The appointment order of the petitioner does not say that he has been appointed as against any sanction post which fell vacant and that his appointment will be sent for the approval of the Government. In fact in the appointment order itself a specific portion of the order has been struck off which means the petitioner's appointment is not subjected to approval of the third respondent. In fact there is a Government circular which states that no post which arise as on 01.06.2003 should be filled up as the Government is seriously considering the pay structure and grade of existing teachers.



W.P.No.5455 of 2020

6. Since the petitioner has not been appointed as against any permanent vacancy on permanent basis and his appointment itself was on consolidated basis, his case was not considered. The petitioner who has filed the Writ Petition seeking approval of his appointment was also rejected by stating the above reasons. Without the approval of the petitioner's appointment as a regular appointment, the petitioner cannot seek any arrears of time scale from 01.07.2002 on regular scale basis.

7. The petitioner's grievance is that he is not covered under the pension scheme since his appointment was shown on 31.03.2003. The petitioner was not in permanent appointment and his appointment was not regularized as claimed by him any time before 31.03.2003. Just because the petitioner and like others were considered by the Government for getting time scale of pay with effect from 01.06.2006, the petitioner cannot take advantage and the claim that he is entitled to get any arrears on the basis of the time scale of pay from 01.07.2002 till 01.06.2006.



W.P.No.5455 of 2020

8. Since the petitioner has made claim without any acceptable basis and his services was not regularized with effect from 01.07.2002, the impugned order has been passed. The writ petition lacks merits.

9. In the result, this Writ Petition is dismissed. No costs. Connected miscellaneous petition is closed.

20.12.2023

Index: Yes / No
Speaking order / Non-speaking order
bkn

To:

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W.P.No.5455 of 2020

R.N.MANJULA ,J.

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W.P.No.5455 of 2021

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