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W.P.No.28928 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13..07..2023

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.28928 of 2022

and

W.M.P.No.28222 of 2022

S.Maria Michael

..... Petitioner

-Versus-

- 1.The Secretary to Government,
Finance Department,
Fort St. George, Secretariat,
Chennai 600009.
- 2.The Principal Secretary to Government,
School Education Department,
Fort St. George, Secretariat,
Chennai 600 009
- 3.The Director of School Education,
D.P.I. Campus,
Chennai 600006.
- 4.The Joint Director of School Education,
Commissioner of School Education Office,
D.P.I. Campus, College Road,
Chennai 600006.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to
issue a Writ of Certiorari calling for the records relating to the impugned order



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of the 3rd respondent in Na.Ka.No.60644/C4/E2/2015 dated 19.10.2015 and the impugned order of the 2nd respondent in Letter No.14431/P.K.2(1)/2017-4, dated 05.09.2018 and consequential impugned rejection of the 4th respondent in Na.Ka.No.10128/C4/E2/2022 dated 01.04.2022 and to quash the same.

For Petitioner : *Mr.M.Sriram*

For Respondents : *Mr.V.Jeevagiridharan,*
AGP for RR1 to 4

ORDER

The writ petition challenges the orders of the respondents 2 and 3 dated 19.10.2015 and 05.09.2018 and the consequential order of the 4th respondent dated 01.04.2022 rejecting the request of the petitioner for sanction of Special Grade Pay.

2. The case of the petitioner is that he was appointed as a Physical Education Teacher and he served in various schools w.e.f. 16.07.1964. He was awarded selection grade from 19.10.1977 on completion of ten years of service. He was promoted as Physical Director Grade II w.e.f. 04.02.1981 and was awarded selection grade and special grade in the said post from 04.02.1991 and 04.02.2001 respectively. He was permitted to retire from service on 30.09.2001. Since the said date being middle of the academic year, he was allowed to continue on re-employment basis till 31.05.2002.



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3. According to the petitioner he should have been given special grade pay in the post of Physical Education Teacher on 19.10.1987 with higher scale of pay since he had completed ten years of selection grade service on the said date. Despite his promotion as Physical Director Grade II, he was getting very lesser scale of pay. He relied upon G.O.Ms.NO.281, Finance (Pay Cell) Department dated 02.04.1987 which directed that the employees in the selection grade shall be allowed to move on the special grade on completion of total minimum period of 20 years of service in the post irrespective of the service in the selection grade even though ten years of selection grade is not yet completed. His earlier representations were rejected. Challenging the same he filed W.P.No.10756 of 2008 and W.P.No.4011 of 2020. Lastly, on 20.09.2022, he gave a representation for sanction of Special Grade Pay. But, it did not evoke any response. Hence, the present writ petition.

4. Heard both sides.

5. By order dated 02.09.2008 in W.P.No.10756 of 2008, this court had held that even though G.O.Ms.No.281 Finance (Pay Cell) Department dated 02.04.1987, G.O.Ms.No.210, Personnel and Administrative Reforms (Per.S) Department dated 11.03.1987 clearly stated that if the salary is identical in the promotion post and the special grade post in the lower category, the said period



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can be counted for the purpose of awarding special grade. Hence, the order impugned in the writ petition was set aside on the ground that the same was passed without reference to G.O.Ms.No.210. However, the order of this court was not considered.

6. It is relevant to note that earlier, pursuant to the orders of this Court in W.P.No.10756, the 3rd respondent by letter 20.10.2008 turned down the claim of the petitioner. The petitioner once again made a representation to the higher authorities. The Director of School Education by his letter dated 19.10.2015, again turned down the request of the petitioner. That letter was also not challenged. However, the petitioner made several representations to the respondents. The Principal Secretary to Government by his letter dated 05.09.2018 rejected the claim of the petitioner. That was also not challenged by the petitioner. Considering all the above, this court while dismissing the writ petition observed as under:-

“5. In the considered view of this Court, the petitioner having not chosen to challenge the letter dated 19.10.2015 of the Director of School Education and letter dated 05.09.2018 of the Principal Secretary to Government of Tamil Nadu, cannot maintain a writ petition seeking for a Mandamus. Once the respondent have taken a very



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clear stand, the petitioner is not entitled for the relief sought for in this writ petition. The petitioner cannot try to create a cause of action by giving representations. The petitioner is already aged about 77 years and the petitioner was not vigilant enough to approach this Court within a reasonable time.

6. In the considered view of this Court, no useful purpose will be served by directing the respondent to consider the representation made by the petitioner, since the petitioner has not challenged the earlier orders rejecting her claim and therefore, this Court does not find any ground to entertain this writ petition and accordingly, the same is dismissed. No costs.”

7. When the claim of the petitioner had already been rejected long back and this court dismissed the writ petition in W.P.No.4011 of 2020 by order dated 19.02.2020, the petitioner cannot seek to revive his right. If this writ petition is entertained, it would amount to nullifying the order of this court dated 19.02.2020 made in W.P.No.4011 of 2020. The conduct of the petitioner in making repeated representations and getting orders from the authorities concerned and approaching this court is highly deprecated and it is nothing but an abuse of process of court. That apart the writ petition is also hit by laches.



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Therefore, this court does not find any merit in the writ petition and the same deserves only to be dismissed.

In the result, the writ petition is dismissed. No costs. Consequently, connected WMP is closed.

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Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk

To

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- 2.The Principal Secretary to Government, School Education Department,
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- 3.The Director of School Education, D.P.I. Campus,
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N.SATHISH KUMAR.J.,
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