



W.P No.30546 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **31.08.2023**

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

WP No.30546 of 2018

K.Ambapathy

... Petitioner

-Vs-

1. The Government of Tamil Nadu
Rep. by Secretary to Government
Education Department
Fort. St. George, Chennai – 600 009.

2. The Director of School Education
College Road, Chennai – 600 009.

3. The Joint Director of School of Education (Personnel)
College Road, Chennai – 600 009.

4. The Chief Education Officer
Vellore, Vellore District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India
praying for a Writ of Certiorarified Mandamus calling for the records of
relating to third respondent's proceedings made in Na.Ka.No.



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76226/A4/E3/2014 dated 01.05.2017 to quash the same in so far as it directs that the petitioner would be entitled to notional fixation only and consequently direct the respondents to forthwith revise and re-fix the pension and other pensionary benefits, including monetary benefits from the date on which his immediate junior was granted the benefit on promotion etc.

For Petitioner : Mr. Arivazhagan

For Respondents : Mr. R. Neethi Perumal
Government Advocate

ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus seeking records relating to the proceedings of the third respondent / Joint Director of School Education (Personnel) at Chennai in Na.Ka.No. 76226/A4/E3/2014 dated 01.05.2017 and to quash the same in so far as it directed that the petitioner would be entitled to notional fixation only and also direct the respondents to revise and re-fix the pension and other pensionary benefits, including monetary benefits from the date on which his immediate junior was granted such benefits.

2. The writ petitioner was aged about 64 years on the date when



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he filed the Writ Petition. This would indicate that he had filed the Writ Petition after about 6 years from the date of attaining the age of superannuation. This factor itself would show that the Writ Petition has been filed more as a gamble than out of any real intention.

3. The petitioner was initially appointed as Junior Assistant at Government High School in Pollipakkam, Arakkonam, Vellore District, on 02.08.1982. Thereafter, the Government had taken a policy decision in G.O.Ms.No. 996 P & AR Department dated 22.09.1984 to regularise all the Junior Assistants, who had been appointed through Employment Exchange under Rule 10(a)(i) of State and Subordinate Service Rules. The service of the petitioner was also regularised from 25.06.1984. The period of probation was declared as completed on the ground that the petitioner had passed Bhavani Sagar Training by proceedings of the District Educational Officer dated 03.12.1990 with effect from 14.02.1988. It was stated that the petitioner was entitled for monetary benefits with effect from 14.02.1988. The petitioner also claimed that he is entitled for promotion. However, his



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junior was promoted as Junior Assistant on 22.09.1996. It had been stated that the probation of the petitioner had been wrongly declared even though he had not passed the District Officer Manual Test. The petitioner had passed the said test only in November 1994. The declaration of probation by the District Educational Officer on 03.12.1990 was held not in consonance with the rules relating to declaration of probation. Since the petitioner had not completed the requisite qualification for his probation to be declared. Complaining that by the reversal of the order, the petitioner had suffered monetary loss, the Writ Petition has been filed.

4. In the impugned order, the very same aspect had been contended. It was stated that the probation of the petitioner had been declared even though he had not passed the District Officer Manual Test which is a necessary pre-condition for probation to be declared. However, after he subsequently passed the said test, the probation was declared. Since he had not discharged the work of Assistant that particular period was taken into consideration notionally for all aspects including for the number



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of years of service to be calculated for pension. It is therefore contended that the petitioner has not been affected as the period of service had been taken into consideration notionally.

5. The petitioner however claims that he must be granted necessary monetary relief. This relief he claims after about six years of attaining the age of superannuation. There is no reason given as to why he had not claimed the same during the period of his service.

6. The learned Government Advocate relied on Rule 27 of the Fundamental Rules and more particularly with sub-rule 17. This was in consonance with G.O.Ms.No. 977, P & AR Department, dated 06.10.1986 wherein it had been stated that when a Government servant had been subsequently promoted, he would draw the pay from the date when he had joined the higher post. The date of assumption of charge in the higher post is crucial. To that extent, the petitioner pay had not been affected since he had been actually promoted after he had passed the District Officer Manual



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7. Even in the counter affidavit, it had been very clearly stated that all benefits had been granted to the petitioner herein and it could be granted only notionally, since he had not functioned as Assistant. On the side of the respondents, the learned Government Advocate also stressed that particular aspect stating that the petitioner had not worked as Assistant and had raised the issue much later after his retirement. It is seen that the Writ Petition itself had been filed nearly after six years after him reaching the age of superannuation.

8. I find no infirmity in the impugned order. The Writ Petition therefore stands dismissed. No costs.

vsg

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Index:Yes/No

Neutral Citation:Yes/No

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