



W.P.(MD).No.352 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.352 of 2022

and

W.M.P(MD)Nos.276, 277 & 1519 of 2022

M.A.Nagasamy

... Petitioner

Vs.

1.The Chief Education Officer,
Ramanathapuram Town,
Ramanathapuram District.

2.The District Educational Officer,
Ramanathapuram Town,
Ramanathapuram District.

3.The Correspondent,
Seyed Ammal Hr. Sec. School,
Ramanathapuram Town,
Ramanathapuram District.

4.The Head Master,
Seyed Ammal Hr. Sec. School,
Ramanathapuram Town,
Ramanathapuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the



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records pertaining the impugned order made in Na.Ka.No.1(Tha.Vi.O)/2021, dated 27.07.2021 on the file of the third respondent and quash the same as illegal, arbitrary and consequently, direct the respondents herein to permit the petitioner to continue as Junior Assistant in the fourth respondent School and consequently direct the respondents to disburse the accrued salary from March 2021 and to grant all other attendant monetary benefits regularly as eligible to the petitioner.

For Petitioner : Mr.M.Thirunavukkarasu

For R-1 & R-2 : Mr.V.Om Prakash
Government Advocate

For R-3 & R-4 : Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

ORDER

This writ petition has been filed by a Junior Assistant, who was working in the fourth respondent aided School challenging an order, dated 27.07.2021 wherein he was relieved accepting his request for voluntary retirement submitted by him on 26.04.2021.

2. According to the writ petitioner, he was appointed as a Junior Assistant in the fourth respondent School on 01.06.2002. The petitioner was



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placed under suspension on certain charges on 15.03.2021 and a charge memo was issued to him. The petitioner has submitted his explanation on 23.02.2021. Based on the said explanation, suspension was revoked on 17.04.2021 and the disciplinary proceedings culminated by issuance of an order of censure.

3. The petitioner had re-joined duty on 20.04.2021. Immediately from the next day, the petitioner had applied for medical leave from 21.04.2021 to 17.06.2021. While he was on medical leave, the petitioner had given a letter to the fourth respondent Management on 26.04.2021, expressing his intentions to go on a voluntary retirement basis with effect from 27.07.2021. After expiry of the medical leave, the petitioner had re-joined duty on 18.06.2021. From 19.06.2021 till 18.07.2021, the petitioner was again on medical leave.

4. It is the contention of the petitioner that while he was on medical leave, a letter for voluntary retirement was forcibly obtained by the fourth respondent Management on 26.04.2021 and he was relieved on 27.07.2021 which is impugned in the present writ petition.



7. Per contra, the learned Senior Counsel appearing for the respondent College had pointed out that the petitioner has submitted his letter seeking voluntary retirement on 26.04.2021 by his own hand writing. The petitioner had a choice to withdraw the said letter till it is accepted by the Management.



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However, no such letter was addressed by the writ petitioner to the Management seeking to recall the VRS letter. Therefore, the Management had accepted the resignation letter on 27.07.2021 and the petitioner was relieved from duty. The School being the Appointing Authority and the Competent Authority to accept the VRS letter, the question of seeking approval from the authorities does not arise. The relieving order was being forwarded to the authorities only for the purpose of disbursement of the benefits, if any, to the writ petitioner. The learned Senior Counsel has further contended that for the first time, the petitioner has given a letter to the fourth respondent Management only on 17.09.2021 seeking to recall his request for VRS. The learned Senior Counsel further relied upon the judgment of the Hon'ble Division Bench of this Court reported in **2010 W.L.R page 1 (M.A.Asharaff Ali Vs. The Secretary to Government and Others)**, wherein the Hon'ble Division Bench of this Court was pleased to hold that once an order of resignation is accepted, the employee will not have any right to withdraw his offer. Hence, he prayed for dismissal of the writ petition.

8. I have carefully considered the submissions made on either side and perused the materials available on record.



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9. According to the writ petitioner, the letter seeking voluntary retirement was forcibly obtained from the writ petitioner on 26.04.2021, while he was on medical leave. The petitioner has not come forward to offer any explanation why the said letter submitted by him on 26.04.2021 was never withdrawn by him before it was accepted by the School Management on 27.07.2021. Therefore, it is clear that on 27.07.2021, after the expiry of three months period, the School Management has chosen to accept the VRS letter submitted by the writ petitioner. Till such time, the petitioner has not raised any objection with regard to the alleged manner in which the said VRS letter was obtained by the School Management. Only after nearly two months, the petitioner for the first time, has addressed a letter to the School Management on 17.09.2021 seeking to recall his offer of voluntary retirement and the present writ petition has been filed in January 2022 seeking to challenge the order of relieving the petitioner by the School Management.

10. From the trajectory of events narrated above, it is clear that the petitioner having given the VRS letter on 26.04.2021, he had the option to withdraw the said offer only till it is accepted by the School Management. In



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the present case, two months after the VRS letter was accepted and the petitioner was relieved from duty, the petitioner has chosen to send a letter on 17.09.2021 withdrawing his offer of VRS. Therefore, the judgment of the Hon'ble Division Bench of this Court reported in **2010 W.L.W page 1** is squarely applicable to the facts of the present case.

11. In view of the above said facts, this Court does not find any merits in the present writ petition. This writ petition stands dismissed. In view of the dismissal of the present writ petition, the third respondent herein is directed to forward the pension proposals, within a period of two (2) weeks from the date on which the writ petitioner appears before the School and signs the relevant papers to the first respondent. The first respondent herein is directed to disburse the pensionary benefits, within a period of eight (8) weeks thereafter. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions stand closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR



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