



W.P.(MD)No.908 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:01.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.908 of 2021

Manivel

... Petitioner

Vs.

- 1.The State of Tamil Nadu
Rep.by its Secretary,
Department of School Education,
Fort St.George, Chennai-600 009.
- 2.The Director of School Education,
College Road, Chennai-600 006.
- 3.The Chief Educational Officer,
Kanyakumari District, Nagercoil.
- 4.The District Educational Officer,
Kuzhithurai Education District,
at Marthandam,
Kanyakumari District.
- 5.The District Educational Officer,
Thiruvattar Education District,
at Marthandam,
Kanyakumari District.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings of the second respondent in Mu.Mu.No.102056/A5/E4/2012 dated 08.03.2013 and quash the same on the ground that it is against the dictum of judgment of this Court in W.P.No.32511 of 2005 dated 21.02.2006 and consequently, direct the respondents to regularize the appointment of the petitioner in the post of Lab Assistant with effect from 07.04.1989 and disburse the service benefits accrued on the date of retirement (28.02.2017) on the basis of such regularization.

For Petitioner : Mr.M.P.Hari Prasad

For Respondents : Mr.J.Ashok

Additional Government Pleader

ORDER

This Writ Petition has been filed to call for the records pertaining to the proceedings of the second respondent in Mu.Mu.No.102056/A5/E4/2012 dated 08.03.2013, quash the same on the ground that it is against the dictum laid down in W.P.No.32511 of 2005 dated 21.02.2006 and direct the respondents to regularize the appointment of the petitioner in the post of Lab Assistant



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with effect from 07.04.1989 and disburse the service benefits accrued on the date of retirement (i.e.,) 28.02.2017, on the basis of such regularization.

2. The case of the petitioner is that admittedly, the petitioner belonged to Sri Lanka and due to the civil war, he repatriated in India. He got job in the Education Department as Office Assistant and he was promoted to the post of Laboratory Assistant with effect from 07.04.1989 and for regularization of his service, he was asked to produce the original Certificate and mark sheet. On verification of the Certificates produced by the petitioner, the fourth respondent doubted the genuineness of the Certificates and charges were levelled against the petitioner for having produced the fake Certificates. Accordingly, an enquiry was conducted and the Enquiry Officer arrived at a conclusion that the Certificates produced by the petitioner are forged. Consequently, the petitioner was reverted to the post of Office Assistant with effect from 20.02.1997. Thereafter, the petitioner has challenged the order of the reversion before the Tamil Nadu State Administrative Tribunal and the same was later



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transferred to this Court. It was taken on file in W.P.No.32511 of 2005.

This Court vide order dated 21.02.2006 has allowed the writ petition by setting aside the order of reversion. But, the petitioner was promoted to the post of Laboratory Assistant only with effect from 06.12.2006. However, he was to be promoted in the post of Laboratory Assistant since 07.04.1989. Hence, the petitioner has filed a Contempt Petition No.1837 of 2007 and in pursuant to the same, the respondents have paid a sum of Rs.3,00,035/- (Rupees Three Lakhs and Thirty Five only) to the petitioner. Accordingly, the contempt petition was closed. But, the respondents have neither regularized the service of the petitioner as Laboratory Assistant with effect from 07.04.1989 nor paid the benefits. Therefore, the petitioner has sent a representation dated 06.12.2011. Since no order was passed, the petitioner has filed a writ petition in W.P.No.32841 of 2012. This Court vide order dated 07.12.2012 directed the second respondent herein to consider the representation of the petitioner dated 06.12.2011 and pass appropriate orders on merit and in accordance with law. But, without considering the earlier order passed by this Court in W.P.No.32511 of 2005, the second



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respondent has rejected the petitioner's representation on the ground that the Writ Appeal was filed and the same is pending before this Court. However, the grievance of the petitioner is that if the reversion order was not passed, the petitioner was allowed to continue in the post of Lab Assistant with effect from 07.04.1989 and he is entitled for special grade and selection grade on completion of 10 years and 20 years. However, the said benefits have not been granted to the petitioner. Challenging the impugned order, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that admittedly, the Educational Certificates of the petitioner were questioned by the Authority and he was reverted back to the post of Office Assistant vide the proceedings dated 20.02.1997. Challenging the same, he has filed a writ petition in W.P.No.32511 of 2005. This Court vide order dated 21.02.2006 allowed the writ petition by setting aside the order of reversion. Pursuant to the order passed by this Court, the second respondent promoted the petitioner to the post of Laboratory Assistant with effect from 06.12.2006 and cancelled the reversion order. However,



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the petitioner is to be placed in the post of Laboratory Assistant with effect from 07.04.1989 and is entitled to receive all the benefits in the post of Laboratory Assistant from 07.04.1989. However, the same was denied on the ground that the writ appeal is pending before this Court. But, admittedly, no writ appeal is pending before this Court. Hence, the impugned order passed by the second respondent dated 08.03.2013 is not sustainable one.

4. The learned Additional Government Pleader appearing for the respondents would submit that for regularizing the service of the petitioner in the post of Lab Assistant, his Educational Certificates were sent to the Competent Authorities as to verify the genuineness of the Certificates. After verification of the Certificates, it was found that the Educational Certificates submitted by the petitioner were not genuine. Hence, he was reverted vide order dated 20.12.1997 made in Na.Ka.No.21669/A1/1990 of the fourth respondent. Thereafter, the petitioner filed Original Application before the Tamil Nadu Administrative Tribunal and due to the closure of the Tamil Nadu



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Administrative Tribunal, the case was transferred to this Court and it was taken on file as W.P.No.32511 of 2005. Before filing any counter, this Court has allowed the writ petition by setting aside the order of the reversion of the petitioner vide order dated 21.02.2006. Accordingly, the petitioner was promoted temporarily with effect from 08.12.1996 as Lab Assistant. Thereafter, a Writ Appeal has been filed against the order dated 21.02.2006 made in W.P.No.32511 of 2005 and the same is pending. While so, the petitioner has requested the Authority to regularize his service in the post of Lab Assistant based on the order dated 21.02.2006 passed by this Court and to sanction selection grade/special grade and to disburse arrears of pay till the date of retirement. Thereafter, the second respondent has issued the impugned order rejecting the request of the petitioner vide order dated 08.03.2013 made in Mu.Mu.No. 102056/A5/E4/2012.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.



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6. The facts in the present case are not in dispute. Admittedly, the petitioner's place of birth is Sri Lanka and he completed his Education in Sri Lanka. Thereafter, due to the civil war, he repatriated to India. He got appointment in the Education Department as Office Assistant vide the proceedings of the fourth respondent dated 20.11.1982 and thereafter, was promoted to the post of Laboratory Assistant. For regularizing his service, the Authority has directed him to produce the Educational Certificates and he has also produced the Certificates. During the course of verification of the Certificates, it was found that the Certificates produced by the petitioner are not genuine and he was reverted to the post of Office Assistant vide the proceedings dated 20.02.1997 of the fourth respondent. Challenging the same, the petitioner has filed a writ petition in W.P.No.32511 of 2005 and this Court vide order dated 21.12.2006 has allowed the writ petition by setting aside the order of reversion of the petitioner. Thereafter, the second respondent vide proceedings dated 06.12.2006 has promoted the petitioner to the post of Laboratory Assistant. However, for regularization of his service in the post of Laboratory Assistant with effect from 07.04.1989 and for the



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benefits including the selection grade and special grade in the post of Laboratory Assistant, he has sent a representation on 06.12.2011. However, the second respondent has rejected the claim of the petitioner vide the impugned order dated 08.03.2013 on the ground that as against the order passed by this Court in W.P.No.32511 of 2005, a Writ Appeal has been preferred and the same is pending. In the impugned order, except the reason for rejecting the claim of the petitioner that the writ appeal is pending, no other reason has been stated. Hence, the impugned order passed by the second respondent dated 08.03.2013 in Mu.Mu.No.102056/A5/E4/2012 is set aside and the matter is remanded back to the second respondent for fresh consideration. The second respondent is directed to pass appropriate orders on merits and in accordance with law with regard to the eligibility of selection grade and special grade, if there is no legal impediment. The said exercise is to be completed within a period of 12 weeks from the date of receipt of a copy of this order.



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7. Accordingly, this Writ Petition is allowed. No costs.

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NCC: Yes/No

Index: Yes/No

Internet: Yes/No



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M.DHANDAPANI,J.

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