



W.P(MD)No.4392 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.4392 of 2023

and

W.M.P(MD)Nos.4124, 4126 & 4127 of 2023

S.H.Peer Mohamed

... Petitioner

Vs

1.The Commissioner of School Education,
Office of the Commissioner of School Education,
DPI Campus,
Chennai.

2.The Chief Educational Officer,
Office of the Chief Educational Officer,
Thoothukudi.

3.The Head Master,
Government Higher Secondary School,
Kongarayakurichi,
Thoothukudi District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent vide his



W.P(MD)No.4392 of 2023

proceedings in O.Mu.No.4220/Aa2/ 2022 dated 13.07.2022 and quash the same as illegal and consequentially directing the respondents to provide reemployment to the petitioner from 01.07.2022 to up to till the end of academic year and to pay all the monetary benefits within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Mohammed Suhail
for M/s.Ajmal Associates

For Respondents : Mr.N.Satheeskumar
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.The writ petitioner was employed as PG Assistant (Maths) in the third respondent School. He reached the age of superannuation on 30.06.2022. The petitioner applied for reemployment as he retired during the middle of the academic year. The petitioner's request was rejected vide proceedings dated 13.07.2022 issued by the Chief Educational Officer, Thoothukudi. Challenging the same, the present writ petition has been filed.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He pointed out that even though his request for reemployment was rejected by the



W.P(MD)No.4392 of 2023

impugned order, he was allowed to work in the third respondent School even thereafter. Materials have been placed before this Court indicating that the petitioner was still working in the third respondent school. The learned counsel appearing for the petitioner wanted this Court to allow the writ petition as prayed for.

4.The respondents have filed counter affidavit and the learned Additional Government Pleader took me through its contents. He pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record.

6.It is not in dispute that the petitioner reached the age of superannuation only after the commencement of the academic year. In very many similar matters this Court has been consistently directing the authorities to reemploy the superannuated teacher till the end of the academic year. There is no dispute or doubt. However, when the petitioner made a request for reemployment, it was rejected by the competent authority on 13.07.2022 itself. The petitioner ought to have come to this Court immediately thereafter. I take judicial notice of the fact though technically academic year is yet to be over, all the classes



W.P(MD)No.4392 of 2023

have practically been concluded. The students have to write the public examination shortly. In these circumstances, challenge to the order of rejection made on 13.07.2022 cannot be entertained at this stage. The petitioner is guilty of laches. It is possible that the petitioner was continuing to teach the student in the school. That could be a private arrangement involving the Parents Teachers Association. If the petitioner has come to this Court immediately after passing of the impugned order, I may have probably taken a different view. While the petitioner asserts that the petitioner is continuing to teach in the third respondent school, the stand of the respondent is otherwise. A disputed question of fact cannot be adjudicated in writ proceedings. Only for the reason that the petitioner has come to this Court belatedly, I decline to interfere.

7.This writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

28.03.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

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W.P(MD)No.4392 of 2023

G.R.SWAMINATHAN, J.

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