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W.P.(MD)NO.5156 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.5156 of 2023

N. Kannan

... Petitioner

Vs.

1. The Chief Educational Officer,
Tallakulam,
Madurai District,
Madurai – 625 002.

2. The District Educational Officer (Secondary Education),
Tallakulam,
Madurai District,
Madurai – 625 002.

3. The Secretary,
Harveypatti High School,
Harveypatti,
Madurai – 625 005.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to regularize the petitioner's service from 22.07.2017 to 28.02.2018 as duty period and disburse all salary attendance, monetary benefits based upon the petitioner's representation dated 22.11.2022.



For Petitioner : Mr.K.K.Kannan
For R-1 & R-2 : Mr.N.Satheesh Kumar,
Additional Government Pleader.

* * *

ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for respondents 1 and 2.

2. The third respondent could not be served because the said school appears to be become defunct.

3. The petitioner is presently working in Koodakovil Nadargal Higher Secondary School, Koodakovil, Madurai. The petitioner was working as Sewing Teacher in the third respondent school during the year 2017. A criminal case was registered against the petitioner in Crime No.342 of 2017 on the file of Cumbam South police station. The petitioner was arrested and remanded to custody. The petitioner was therefore suspended from service on 22.07.2017. The suspension order was revoked on 01.03.2018 and the petitioner was reinstated. Later the



petitioner migrated to Koodakovil Nadargal Higher Secondary School, Koodakovil. He joined there on 23.04.2021. Now the only question that calls for consideration is as to how the period from 22.07.2017 till 28.02.2018 has to be treated. Since the petitioner was arrested and he was rightly suspended from service, the department cannot be fastened with any liability for the petition mentioned period. This is because the department can be made liable for the period in which the petitioner has worked. If the teacher was kept away from service, the teacher has to proceed against the management.

4. I therefore grant liberty to the petitioner to proceed against the management / the third respondent herein for payment of arrears. However, the present management, namely, the Secretary, Koodakovil Nadargal Higher Secondary School, Koodakovil, Madurai District, is directed to send proper proposal to the Chief Educational Officer for regularising his period. Since the criminal case in which the petitioner was implicated has since ended in acquittal and since the departmental action also appears to have been dropped, the said period can be properly regularised in the following terms:-



a) The department cannot be made to pay for the said period. It shall be counted as one of duty period for the purpose of computing increment and pension.

b) The petitioner is entitled to proceed against the third respondent for recovery of arrears.

5. This writ petition stands allowed accordingly. No costs.

15.06.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

1. The Chief Educational Officer,
Tallakulam,
Madurai District,
Madurai – 625 002.
2. The District Educational Officer (Secondary Education),
Tallakulam,
Madurai District,
Madurai – 625 002.



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G.R.SWAMINATHAN,J.

PMU

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