

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5431 of 2023

and

W.M.P.(MD)Nos.5081, 5082 & 5084 of 2023

A.Subramanian

... Petitioner

Vs.

1.The Commissioner of School Education,
O/o. The Commissioner of School Education,
DPI Campus,
Chennai.

2.The Chief Educational Officer,
O/o. The Chief Educational Office,
Virudhunagar District.

3.The Headmaster,
Government Higher Secondary School,
Chinnakkamanpatty,
Virudhunagar 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 records relating to the impugned order passed by the second respondent vide his proceedings in A.thi.Mu.No.00841/A7/2023, dated Nil.02.2023 and consequential impugned order passed by the third respondent vide his proceedings in Na.Ka.No.14/2023 dated 28.02.2023 and quash the same as

illegal and consequently to direct the respondents to prove re-employment to the petitioner from 01.03.2023 upto till the end of academic year and to pay all the monetary benefits within a period that may be stipulated by this Court.

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

For Respondents : Mr.N.Satheeshkumar
Additional Government Pleader

ORDER

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

2. The petitioner was appointed as Secondary Grade Teacher on 31.08.1995 and he was promoted as BT Assistant on 08.07.2009. The petitioner was working in the third respondent school. He attained the age of superannuation on 28.02.2023. The petitioner seeks reemployment. Since his request was not accepted, the present writ petition came to be filed.

3. The primary ground on which the petitioner's request is opposed by the respondents is that in the school in question, only 158 students are studying from classes 6th to 10th and that therefore, the petitioner should be considered as a surplus teacher. The details are as follows:-

Class VI	24 students
Class VII	26 students
Class VIII	19 students
Class IX	46 students
Class X	43 students

4. It is not in dispute that the petitioner is only a BT teacher who is teaching Tamil. There are totally five subjects namely Tamil, English, Maths, Science and Social Science. There are two Maths teachers. Since the petitioner is only a Tamil teacher, he cannot be considered as surplus teacher. The petitioner fulfils all the conditions set out in G.O.Ms.No.261, School Education Department, dated 20.12.2018.

5. In this view of the matter, the respondents are directed to reemploy the petitioner till the end of the academic year ie., on 31.05.2023. The petitioner will be entitled to all the consequential monetary and other benefits.

6. I cannot however resist making one remark. Applying of G.Os relating to re-employment is sometimes leading to absurd consequences. These G.Os are meant for the benefit of the students. In practice, they are being invoked more for the monetary benefit of the teachers who have already attained the age of superannuation. The purpose of G.O. is to ensure that the students continue

to get the benefit of the very same teachers who had originally taught them. That is why, if the teacher reaches the age of superannuation during the middle of the academic year, their services are extended till the end of the academic year. It is well known that the students do not study upto 31st of May. All the schools are closed for summer vacation by the end of April itself. Therefore, paying salary for the month of May to the said superannuated teacher is sheer waste of public revenue. In this case, the petitioner had reached the age of superannuation on 28.02.2023. But he is still given benefit by the application of the said G.O. I have come across several applications where the teachers retired in the month of June. It can particularly be called as the middle of the academic year. The academic year would have hardly commenced. It is high time the Government has a re-look at the G.Os. relating to re-employment of teachers. However, it would not be proper for this Court to issue any positive direction. It is for the Secretary to Government, School Education Department to consider abrogating such G.Os.

7. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

15.03.2023

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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