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W.A.(MD) No.1237 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.A.(MD) No.1237 of 2023
and
C.M.P.(MD) No.9272 of 2023**

M.Alagappan

... Appellant

-vs-

- 1.The State of Tamil Nadu
Rep.by its Chief Secretary to Government
Personnel and Administrative
Reforms (S) Department
Secretariat, Fort St.George
Chennai-600 009
- 2.The State of Tamil Nadu
rep.by its Chief Secretary to Government
School Education Department
Secretariat, Fort St.George
Chennai-600 009
- 3.The Commissioner of School Education
O/o.The Commissioner of
School Education Department
College Road, Chennai-600 006



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4.The Director of School Education
DPI Campus, College Road
Chennai-600 006

5.The Chief Educational Officer
Sivagangai District
Sivagangai

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 08.07.2020, passed in W.P.(MD) No.7338 of 2020, on the file of this Court.

For Appellant : Mr.S.Bharathy Kannan

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader

J U D G M E N T

[Judgment of the Court was made by D.BHARATHA CHAKRAVARTHY, J.]

This writ appeal is directed against the order of the learned Single Judge, dated 08.07.2020, dismissing the writ petition in W.P.(MD) No.7338 of 2020 filed by the appellant herein.



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2. In the said writ petition, the appellant challenged the Government Order in G.O.(Ms) No.51, Personnel and Administrative Reforms (S) Department, dated 07.05.2020, insofar as it restricts the benefit of extension of superannuation date to those, who are in service on the date of the said Government Order.

3. The case of the appellant is that when the Government had decided to extend the retirement age from 58 to 59 years in terms of the said G.O.(Ms) No.51, dated 07.05.2020, it should have been made applicable to all the employees and just because, the appellant was not in service as on 07.05.2020, he should not have been left out. Therefore, it is the case of the appellant that the cut off date prescribed under the said Government Order is artificial in nature.

4. The learned Single Judge considered the case of the appellant and the fact that the appellant attained the age of superannuation on 29.02.2020 even prior to the date of the said Government Order and it is only on reemployment, he was continuing in service till 31.05.2020 i.e. till the end of the academic year and the said reemployment was contractual in nature



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and therefore, there is a difference between the service of the regular employee, who is yet to retire and the service of the contractual employee, who was in service. Therefore, when the appellant belonged to a different class, the learned Single Judge has held that G.O.(Ms) No.51, dated 07.05.2020, cannot be said to be discriminatory and dismissed the writ petition. Aggrieved by the same, the present writ appeal is filed before this Court.

5. Though this writ appeal has been filed raising very many grounds, when this Court posed a query as to the decisions, which are rendered in several connected matters affirming the same view of the learned Single Judge, learned counsel for the appellant has no answer. As rightly held by the learned Single Judge, the cut off date cannot be held to be artificial. The Government Order extended the age of superannuation only to those, who are in service. Admittedly, the appellant attained the age of superannuation on 29.02.2020 and he was only on reemployment till 31.05.2020 *viz.*, till the end of academic year. In that view of the matter, no exception whatsoever can be taken in respect of the decision of the employer to extend the age of superannuation in respect of its existing employees and the appellant does not have any right to insist for increasing the age of superannuation. In the



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absence of any right and when the Government Order in G.O.(Ms) No.51, dated 07.05.2020, is not applicable to the case of the appellant, this writ appeal is bound to fail.

6. Accordingly, this writ appeal is dismissed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.]

[D.B.C., J.]

01.08.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

krk

To:

1.The Chief Secretary to Government,
Personnel and Administrative
Reforms (S) Department,
State of Tamil Nadu,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Chief Secretary to Government,
School Education Department,
State of Tamil Nadu,
Secretariat, Fort St.George,
Chennai-600 009.



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- 3.The Commissioner of School Education,
O/o.The Commissioner of
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College Road, Chennai-600 006.
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