

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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DATED: 05.06.2023**CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P.(MD)No.9059 of 2023 and
W.M.P.(MD)Nos.8209 & 8210 of 2023

M.Uthayasekar

... Petitioner

Vs.

1. The Principal Secretary to government,
Department of School Education,
Secretariat, Chennai -9.
2. The Commissioner of School Education,
DPI Campus, Chennai -6.
3. The Chief Educational Officer,
Ramanathapuram,
Ramanathapuram District.
4. The District Educational Officer,
Ramanathapuram,
Ramanathapuram District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified mandamus, calling for the records connected with the impugned order of termination passed by the 4th respondent in Na.Ka.No.1157/A1/2020 dated 23.02.2023, quash the same and consequently direct the respondents to re-instate the petitioner in the post of Typist under Rule 10 (a)(i)(1) of the State and Subordinate



Service Rules in the existing vacancy under the 4th respondent considering the 15 years of continuous service and 57 years of age of the petitioner.

For Petitioner : Mr.S.Govindan

For Respondents : Mr.N.Satheesh Kumar,
Additional Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The writ petitioner was appointed as Typist under Rule 10(a)(i)(1) of Tamil Nadu State and Subordinate Services Rules in the year 2007. The petitioner was permitted to write the Special Competitive Test for permanent absorption. The petitioner cleared the same. The petitioner was selected and posted in the Industries and Commerce Department by TNPSC as Typist. The petitioner ought to have reported for duty in the said department. For the reasons that are not quite clear, the petitioner did not do so. Instead, she continued to remain as Typist in the Education Department. Subsequently, he filed W.P.(MD)No.4805 of



2011 for considering the representation for change of allotment. This Court vide order dated 26.04.2011 directed TNPSC to consider the petitioner's request for being retained in the Education Department. The petitioner's request was rejected vide order dated 21.06.2012. Challenging the same, the petitioner filed W.P.(MD)No.8868 of 2021. The writ petition was dismissed. W.A.(MD)No.1340 of 2021 was also dismissed. Rev.Applc.(MD)No.93 of 2021 was also dismissed on 31.01.2022. In these circumstances, the petitioner filed W.P.(MD)No. 4937 of 2023 and the same was also dismissed. While dismissing the said writ petition as not maintainable, liberty was given to the petitioner to file petition to continue to work in the Education Department as Typist under Rule 10(a)(i)(1). Availing the said liberty, the present writ petition came to be 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 and called upon this Court to grant relief as prayed for.

4. The respondents have filed counter affidavit and the learned Additional Government Pleader submitted that the very filing of the writ



petition is an abuse of legal process and that settled issues cannot be re-agitated. 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 true that the petitioner was allotted to some other department way back in the year 2010. If the petitioner had been disengaged in the year 2010, it would be a different matter altogether. The petitioner was allowed to work as Typist in the Education Department all along. This is a relevant circumstance in favour of the petitioner. Even while upholding the contention of the learned Additional Government Pleader that the petitioner has no statutory or legal right as such, in the interest of justice the petitioner can be allowed to continue to work as Typist in the Education Department under Rule 10(a)(i)(1). The petitioner is now aged 57 years. He can work for three more years. The petitioner obviously cannot claim any retirement benefits. The only relief I am granting is to permit his continuation in temporary capacity, till he reaches the age of superannuation. Admittedly, there is need in the education department also. Otherwise the petitioner would not have been



allowed to continue for more than 12 years even after the petitioner was

allotted to some other department.

7. The impugned order does not contain any reason as to why the petitioner having been engaged for 12 long years has been suddenly ousted. It is not the case of the respondents that there is no vacancy. Considering the service put in by the petitioner, the petitioner can as well be allowed to continue in the very same capacity. The order impugned in the writ petition is set aside. The respondents are directed to maintain Status Quo in respect of the petitioner till he reaches the age of superannuation. I make it clear that this Court has not given any other right in favour of the petitioner. The petitioner is also very much agreeable to this course of action. In other words, the aforesaid order is passed based on the consent given by the petitioner. This writ petition stands partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

05.06.2023

NCS : Yes / No

Index : Yes / No

Internet : Yes / No

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G.R.SWAMINATHAN,J.

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