



W.P(MD)Nos.21975 & 25354 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.21975 & 25354 of 2022

and

W.M.P.(MD)Nos.19439 of 2022

G.Prabakar

... Petitioner

Vs.

1.The Director of School Education,
College Road,
Chennai 600006.

2.The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.

3.The District Educational Officer,
Thoothukudi,
Thoothukudi District.

4.The Secretary,
Karapettai Nadar Higher Secondary School,
Thoothukudi,
Thoothukudi District 628 001.

5.The Headmaster,
Karapettai Nadar Higher Secondary School,
Thoothukudi,
Thoothukudi District 628 001.

... Respondents



W.P.(MD)Nos.21975 & 25354 of 2022

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 2 & 3 herein to consider the petitioner's representation dated 08.08.2022 submitted in person and reminder representation dated 12.08.2022 and pass appropriate orders by accepting the petitioner's voluntary retirement from service of selection grade Junior Assistant in the 5th respondent's school and release all the petitioner's retirement benefits including commuted value of pension, gratuity, EPF, surrender leave salary and all other monetary benefits etc., within a time stipulated by this Court.

For Petitioner : Mr.V.Meenakshisundaram

For Respondents : Mr.N.Satheeshkumar
Additional Government Pleader for R1 to R3
: Mr.Isaac Mohanlal
Senior Counsel
for M/s.Isaac Chambers for R4
: No appearance for R5

In W.P.(MD)No.25354 of 2022

G.Prabakar

... Petitioner

Vs.

1.The Commissioner of School Education,
College Road,
Chennai 600006.

2.The Joint Director of School,
College Road,
Chennai 600 006.



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3.The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.

4.The District Educational Officer,
Thoothukudi,
Thoothukudi District.

5.The Secretary,
Karapettai Nadar Higher Secondary School,
Thoothukudi,
Thoothukudi District 628 001.

6.The Headmaster,
Karapettai Nadar Higher Secondary School,
Thoothukudi,
Thoothukudi District 628 001.

... 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 impugned charge memo issued by the fifth respondent herein in his proceedings dated .10.2022 and to quash the same as illegal and further directing the respondents 3 & 4 herein to pass appropriate orders by accepting the petitioner voluntary retirement from service of Selection Grade Junior Assistant in the 5th respondent School and release the petitioner's retirement benefits including commuted value of pension, Gratuity, EPF, Surrender leave salary and all other monetary benefits etc., within time stipulated by this Court.



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For Petitioner : Mr.V.Meenakshisundaram

For Respondents : Mr.N.Satheeshkumar
Additional Government Pleader for R1 to R4
: Mr.Isaac Mohanlal
Senior Counsel
for M/s.Isaac Chambers for R5
: No appearance for R6

COMMON ORDER

The petitioner joined the 4th respondent school as a non-teaching staff in the year 1990. He became junior assistant on 02.06.2014. He claims that he submitted his application for voluntary retirement on 20.04.2022 and that he is deemed to have voluntarily retired from service on 19.07.2022. The school is managed by a society registered under Tamil Nadu Societies Registration Act, 1975. Election was conducted and a new set of office bearers took over on 04.08.2022. The petitioner alleges that the new team is ill-disposed towards him for certain reasons and that is why, the petitioner's fate is hanging fire. His terminal benefits have not been settled. He has not been issued with a formal relieving order. Hence, he filed W.P.(MD)No.21975 of 2022. Since during this period, charge memo was issued, the same has been put to challenge in W.P.(MD)No.25354 of 2022.



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2. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavits filed in support of the writ petitions and called upon this Court to grant the reliefs as prayed for.

3. The school management has filed a counter affidavit and the learned senior counsel took me through its contents. Serious allegations have been made against the writ petitioner, it is also alleged that the petitioner did not submit any application for voluntary retirement on 20.04.2022. The records relied on by the petitioner have also been impeached. The very convening of the school committee meeting on 10.06.2022 is challenged. According to the learned senior counsel appearing for the school management, the employer-employee relationship has not snapped and that is why, the management issued the impugned charge memo.

4. After carefully considering the contentions on either side, I am of the view that the writ petitions have to be dismissed. Unlike the cases of Shri.Tamil Rajan or Shri.Tamil Mani, the department had not passed any proceeding in favour of the writ petitioner. The school is an aided non-minority institution. The post in question is a sanctioned one. Therefore, the approval of the competent authority is necessary. The competent authority had accepted



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the applications submitted by the teaching staff and directed the management to issue relieving orders in their cases. But no such order has been passed in the case of the petitioner. Factual disputes are involved. The petitioner would claim that he did not attend the school after 19.07.2022. This is contested by the management. The learned senior counsel also alleges that there has been creation of records. In these circumstances, it is better to await the decision of the competent authority. The petitioner can approach this Court with their reliefs now sought for after the competent authority takes a decision. With this liberty to the petitioner and making it clear that I have not gone into the merits of the matter, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

21.03.2023

Index : Yes / No
Internet : Yes/ No
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To

1.The Director of School Education,
College Road,
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2.The Chief Educational Officer,
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Thoothukudi District.



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3.The District Educational Officer,
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4.The Joint Director of School,
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G.R.SWAMINATHAN, J.

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