



W.P.(MD).No.22733 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.22733 of 2023

D.Manoharan

... Petitioner

Vs.

1.The Secretary,
The State Government of Tamil Nadu,
Adi Dravidar & Tribal Welfare Department,
Fort St. George, Secretariat,
Chennai-600 009.

2.The Director,
Adi Dravidar Welfare Department,
Chepauk,
Chennai.

3.The District Adi Dravidar Welfare Officer,
Tirunelveli District,
Tirunelveli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the third respondent to disburse the salary for the period from 01.07.2021 to 11.05.2022 (10 months)



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with interest by considering the petitioner's representations, dated 02.02.2023 and 11.04.2023 within the time stipulated by this Court.

For Petitioner : Mr.S.Louis

For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

The present writ petition has been filed seeking direction to the third respondent to disburse the salary for the period from 01.07.2021 to 11.05.2022 (10 months) with interest by considering the petitioner's representations, dated 02.02.2023 and 11.04.2023

2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.(i). The petitioner was appointed as a Secondary Grade Warden on 05.06.1996 and regularised, with effect from the date of appointment. In a period of two years, his probation was declared. In the year 2006, he was given



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with the Selection Grade in the post of Secondary Grade Warden (Secondary Grade Teacher), thereafter, in the year 2009, he was promoted to the post of Graduate Warden.

(ii). In the meanwhile, one T.Ravikumar, who was appointed as Secondary Grade Teacher, with effect from 24.01.1997, has challenged the said promotion along with others by filing a writ petition in W.P(MD)No.5475 of 2010 before this Court. The said writ petition was allowed. Against which, the petitioner has preferred an appeal in W.A(MD)No.71 of 2014 before this Court and the same was dismissed. Thereafter, the petitioner was reverted back to the post of Secondary Grade Warden, vide proceedings of the third respondent, dated 24.10.2017.

(iii). Challenging the same, the petitioner has filed W.P(MD)No.19903 of 2017 before this Court and pleaded that in pursuance to the petitioner acquiring B.Ed., degree on 01.03.2010, his promotion to the post of Graduate Warden could be with effect from 01.03.2010, without reverting him to the lower post. Accordingly, the said writ petition was disposed of, by directing the third respondent to consider the request of the petitioner.



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(iv). Pursuant to the same, on 24.11.2017, the third respondent has passed an order to retain the petitioner in the promoted post of Graduate Warden with effect from 01.03.2010. The said order of the third respondent was challenged by one M.Radhakrishnan by filing a petition in W.P(MD)No. 22276 of 2018 and by filing another petition by one P.Kamalapushpam in W.P(MD)No.22277 of 2018 before this Court. Both the writ petitions were allowed and directed to prepare appropriate seniority list. Against which, the petitioner has preferred appeals in W.A(MD)Nos.105 and 106 of 2020. Though both the writ appeals were disposed of on 08.07.2021, the petitioner was granted with an interim direction that he should not be reverted back and he should be retained in the post of Graduate Warden post. However, in the meanwhile, on 01.07.2021, the third respondent has passed an order by reverting the petitioner back to the post of Secondary Grade Warden.

(v). Since the petitioner was not retained in the post of Graduate Warden, he has filed Contempt Petition in Cont.P(MD)No.1141 of 2021 before the Hon'ble Division Bench of this Court, on the basis of which, the respondents issued the posting order and the petitioner joined duty on 12.05.2022 as



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Graduate Warden at Government Adi Dravidar Welfare Boys Hostel, Kalloor, Tirunelveli District. However, for the period from 01.07.2021 to 11.05.2023, (i.e.,) for a period of 10 months, the petitioner was not given payment of salary.

(vi). Therefore, the petitioner has given representations on 02.02.2023 and 11.04.2023 for payment of salary and the same was not considered. Hence, this writ petition came to be filed.

4. The learned Government Advocate for the respondents submitted that the interest portion cannot be considered and raised an objection in that aspect.

5. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its



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extraordinary powers under Article 226 of Constitution of India and direct them to consider the same within a stipulated time.

6. It is made clear that without going into the merits of this case, this Court hereby direct the respondents to consider the representations of the petitioner, dated 02.02.2023 and 11.04.2023 and pass appropriate orders in accordance with law, within a period of twelve (12) weeks, from the date of receipt of a copy of this order.

7. Accordingly, this writ petition stands disposed of. There shall be no order as to costs.

19.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR



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L.VICTORIA GOWRI, J.

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