



W.P.No.2167 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.2167 of 2019

G.Geetharamani

... Petitioner

Vs.

1.The Secretary to Government,
School Education Department,
Fort St.George,
Chennai – 600 009.

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

3.The District Educational Officer,
Kancheepuram.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records connected with the Government Letter issued in Letter No.30364/Pa.Ka.4(2)/2016 dated 26.11.2018 passed by the 1st respondent and quash the same and consequently direct the respondents to treat the period from 01.07.2002 to 12.08.2004 as duty for all purpose.



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For Petitioner : Mr.V.Sivalingam
for M/s.C.S.Associates

For Respondents : Ms.E.Ranganayaki
Additional Government Pleader

ORDER

The petitioner herein who was initially appointed as Junior Assistant on 13.08.1996 was dismissed from service through proceedings in Na.Ka.No.3103/A1/2002 dated 01.07.2002. Aggrieved by the said order of dismissal, the petitioner approached the Tamil Nadu Administrative Tribunal and thereafter approached this Court by filing Writ Petition No.11641 of 2003 and the learned Division Bench of this Court by an order dated 12.08.2004 allowed the said writ petition. Operative portion of the order reads as under:-

“7. The intention under the G.O issued for employment on compassionate ground is to give protection to the members of the family of the deceased employee. By no stretch of imagination, it can be stated that the children born through the second wife, even though the second marriage is void, are not members of such family. Having regard to all these aspects, we quash the order passed by the Tribunal and quash the order of termination. Accordingly, the writ petition is allowed. It would be deemed that the petitioner is restored in service from 01.07.2002. However, in the facts and circumstances of the case, she would be entitled to 50% of the wages for the aforesaid period.”



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2. Thereafter the petitioner was reinstated into service with effect from 12.08.2004 and the petitioner was also paid 50% back wages as directed by this Court till the date of reinstatement into service on 19.07.2007. The petitioner has once again approached this Court by filing Writ Petition No.17662 of 2008 complaining that the petitioner was paid 50% of the back wages only from 12.08.2004 till the date of reinstatement i.e, since the date of order in Writ Petition No.11641 of 2003, though he is entitled for the back wages.

3. Since the date of termination i.e. 01.07.2002, the said writ petition was disposed of by the learned Single Judge of this Court on 31.07.2008. Accordingly, the petitioner was paid with back wages for the said period. By taking into consideration, the entire service rendered by the petitioner in the post of Junior Assistant, the petitioner was also extended the benefit of promotion on par with his junior. However the grievance of the petitioner in the Writ Petition is only to award increments for the period from 01.07.2002 to 12.08.2004. The said claim made by the petitioner for grant of increments for the above said period was negated by the respondents by passing the impugned order. Hence, the writ petition.



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4. The third respondent has filed a counter affidavit justifying the impugned action by furnishing the following reasons:-

“17.It is humbly submitted that the first respondent in his letter Na.Ka.No.30364/Pa.Ka4(2)/2016 dated 26.11.2018 had rejected the claim of the petitioner to regularize her service from 01.07.2002 to 12.08.2004 for the following reasons-

“Tmt.G.Geetharamani, Upgraded Superintendent, Office of the District Educational Officer, Kancheepuram has been sanctioned 50% of wages for the period from 01.07.2002 to 19.07.2007 full wages for the period 13.08.2004 to 19.07.2007 as per the orders of this Court in W.P.No.11641 of 2003 and W.P.No.17622 of 2002 on 12.08.2004 and 31.07.2008 respectively and the above orders have been made without following any government orders and any precedents and any other rules and it is submitted that the Court in the above orders have not ordered to regularize the period of absence of the petitioner as duty and based on the orders of the High Court in all instances has been considered and her wages has been paid and fixation and regularization and declaration has been made and subsequently promotions have been given to the petitioner and hence the claim of the petitioner to treat her absence of 01.07.2002 to 19.07.2007 cannot be treated as duty period and sanction her the annual increments is rejected as per Rules and her claim for treating the period of absence from 01.07.2002 to 19.07.2007 as duty and sanction of annual increments is rejected accordingly Rules and Regulation.”

5. The order passed by the Division Bench of this Court in Writ Petition No.11641 of 2003 dated 12.08.2004 is very clear and categorical. This Court



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while quashing the order of termination from service by allowing the Writ

Petition, further declared that the petitioner is deemed to be restored into service from 01.07.2002 i.e., date on which the petitioner was terminated from service and also allowed 50% of back wages for the said period. Once this Court declared that the petitioner has been restored into service with effect from 01.07.2002 and allowed 50% of the back wages, it implies that if the petitioner is continued to be in service without any break in service. Therefore, there need not be any specific order to direct the respondents to award increments for the said period. Even otherwise the respondents have on their own, have taken into consideration the said period from 01.07.2002 to 12.08.2004 for all other purposes including for seniority and promotion etc., but failed to take into consideration of the same for award of increment. Once the petitioner is deemed to have been restored in service with effect from 01.07.2002, the petitioner deemed to be in service without any break and therefore the respondents are not justified in not awarding increments for the said period, on the ground there was no specific direction.

6. In the light of the above, the impugned order issued by the respondents is totally unsustainable and accordingly the same is set aside. The respondents



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are further directed to Award the increment for which the petitioner is otherwise entitled for the period from 01.07.2002 to 12.08.2004 and by fix the pay of the petitioner. Accordingly, the respondents are also directed to pay all the arrears payable to the petitioner, on such fixation of pay, as expeditiously as possible at any rate within a period of 12 weeks from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition is allowed. No costs.

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

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To

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MUMMINENI SUDHEER KUMAR, J.

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