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W.P.No.25093 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.25093 of 2009
and M.P.Nos.1 and 2 of 2009

N.Subhathra

.. Petitioner

Versus

1. The Government of Tamil Nadu,
rep. by its 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 Chief Educational Officer,
Nagercoil, Kanyakumari District.
4. The District Educational Officer,
Kuzhithurai, Kanyakumari District.
5. The Headmaster,
Government Higher Secondary School,
Kollamcode, Kanyakumari District.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the 2nd respondent in his proceedings



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No.Na.Ka.14767/V1/E3/09, dated 11.06.2009, quash the same and consequently, direct the respondents 1 to 4 to regularize the petitioner's service with effect from 19.08.1986 and pay arrears of salary from 19.08.1986 to 19.02.1995.

For Petitioner : Mrs.P.Mahalakshmi

For Respondents : Mrs.Mythreye Chandru,
Special Government Pleader,
for RR-1 to 4

: R5 - No Appearance

ORDER

This Writ Petition is filed challenging the impugned order, dated 11.06.2009, in and by which, the part-time salary for the post of Vocational Instructor for the petitioner for the period from 19.08.1986 to 19.02.1995 was denied.

2. The case of the petitioner is that by G.O.Ms.No.1719, dated 14.09.1978, vocational courses were introduced in the Higher Secondary Schools in the State of Tamil Nadu. Pursuant thereto, the modalities of appointment of Vocational Instructor for each of the course has been left to the concerned School Headmaster. Accordingly, the petitioner was appointed as a part-time Vocational Instructor on 19.08.1986 with a



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remuneration of Rs.150/- per month. Ultimately, only with effect from 20.02.1995, the appointment of the petitioner was approved by the third respondent and thereafter, the services came to be dealt with by subsequent orders.

3. However, as far as the period from 19.08.1986 to 19.02.1995 is concerned, the part-time salary was not paid to the petitioner. Accordingly, when the petitioner made representation, the same is rejected by the impugned order, dated 11.06.2009. The part-time salary is rejected on the ground that the petitioner was appointed even before the post is sanctioned in respect of the concerned school. However, it is seen from G.O.Ms.No.1719, dated 14.09.1978 itself, two posts were approved by the Government in respect of each of the school. Paragraph No.7 of the Government Order reads as follows :-

" 7. The Government therefore sanction the creation of posts of part-time Vocational Instructors at the rate of 2 for each Vocational Courses, except the Higher Secondary Schools which have already employed the Bifurcated Course staff. These part-time posts will carry each a consolidated remuneration of Rs.150/-p.m. tenable for 10 months every year. (i.e. excluding the period of vocation)."



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4. As a matter of fact, in the instant case, the post was actually redeployed from yet another school to the present school with effect from 02.09.1993. Be that as it may, it is only the administrative delay of the respondents in carrying out the instructions as mentioned in the original scheme contained in G.O.Ms.No.1719. The petitioner is appointed only in the permitted two vacancies that too with the consolidated pay of Rs.150/- per month. The same cannot be belatedly delayed by the respondents merely because they took several years to approve these appointments made by the Headmasters.

5. Under these circumstances, this Writ Petition is allowed on the following terms :-

(i) The impugned order, dated 11.06.2009 bearing proceedings No.Na.Ka.14767/V1/E3/09 is set aside;

(ii) The respondents are directed to pay the part-time salary as applicable to the petitioner for the period from 19.08.1986 to 19.02.1995 with interest at the rate of 6% per annum;

(iii) The amount payable to the petitioner shall be paid within a period of four months from the date of receipt of a copy of this order;



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(iv) There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index : yes

Speaking order

Neutral Citation : no

grs

To

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