



W.P.No.8092 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE VIVEK KUMAR SINGH

W.P.No.8092 of 2021

W.M.P.Nos.8644 and 8645 of 2021

K.G.Hariharan

...Petitioner

-Vs-

1. The Director of School Education,
Higher Secondary Education Department,
Nungambakkam, Chennai – 600 006
2. The Breeks School Management Committee,
Represented by its President and District Collector,
District Collectorate,
Udhagamandalam – 643 001
3. The Headmaster and Correspondent,
Breeks Memorial Anglo Indian
Higher Secondary School,
Udhagamandalam – 643 001

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order bearing ref.RC.No.N1/2540/2018 dated 31.12.2020 insofar as Resolution No.1495 passed by the 2nd respondent School Committee and consequential show cause notice bearing Ref.No.Na.Ka.No.1/4723/2021 dated 12.03.2021 issued by the 2nd respondent President and to quash the same



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as being illegal, arbitrary and contrary to the order passed by this Hon'ble court in W.P.No.25179 of 2009 and W.A.No.1090 of 2006 and consequently to continue the petitioner in service as Computer Instructor till the normal age of superannuation and to pay scale of pay as payable to the Compute Instructor in Government School.

For Petitioner	: Mr.V.Govardhanan
For Respondents	: Ms.Akila Rajendran Government Advocate

ORDER

This Writ Petition has been filed by the petitioner to quash the order bearing REF.RC.No.N1/2540/2018 dated 31.12.2020 in so far as Resolution No.1495 passed by the second respondent School Committee and consequential show cause notice bearing Ref.No.Na.Ka.No.1/4723/2021 dated 12.03.2021 issued by the second respondent School President as contrary to the order passed by this Hon'ble court in W.P.No.25179 of 2009 and W.A.No.1090 of 2006. Consequently to direct the respondents to continue the petitioner in service as Computer Instructor till the normal age of superannuation and to pay him the scale of pay as payable to the Compute Instructor in Government School.



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2. Heard both sides and perused the materials available on record.

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3. The petitioner was appointed as Computer Instructor at Brecks Memorial Anglo-Indian Higher Secondary School, Ootacamund, on 05.06.1990 through employment exchange. He possessed the educational qualification of Bachelor's degree in Mathematics from Calicut University and a Bachelor of Education degree from Annamalai University, Chidambaram. After six years of service, the School Committee sought to terminate his employment on 11.10.1996. The petitioner challenged this decision by filing W.P. No. 13978 of 1996, which was allowed by order dated 13.03.2006. The Hon'ble Division Bench of this Court had confirmed the order dated 13.03.2006 in W.A.No. 1090 of 2006 dated 16.06.2009 stating that terminating his service was unjustified as he has given valuable years of service. Pursuant to the Hon'ble Division Bench order, the petitioner made representations to the second respondent. Instead of appointing the petitioner as a full-time employee, the second respondent placed him on consolidated pay of Rs.3000/- from 13.03.2006 to 31.03.2008 and Rs. 4000/- from 01.04.2008, equivalent to other employees' salaries. The District Collector of Nilgiris, President of the School, approved this decision, contrary to the Hon'be Division Bench order. Since



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there was no response, the petitioner filed W.P.No.25179/2009 to quash the order dated 27.09.2009 to regularize his service from 06.06.1990 and provide pay scales from 23.09.1994. During pendency of the above case, the first respondent entered into a joint memo compromising on regularization from 13.03.2006 with applicable pay scales. The petitioner relinquished DCRG and Provident Fund claims from 06.06.1990 to 12.03.2006. On 31.12.2020, the second respondent has passed Resolution No.1495 on 31.12.2020, terminating his service for not possessing the qualification as per G.O. Ms. No. 140 dated 19.05.2010. Aggrieved by the order of termination, he come forward with this writ petition.

4. The learned counsel for the petitioner submitted that the impugned order and the show-cause notice passed by the School Committee are liable to be set aside, as the petitioner has been regularized in service with effect from 13.03.2006 as Computer Instructor and has been placed on a time scale of pay from the said date, pursuant to the joint memo of compromise dated 02.09.2013 entered between the petitioner and the respondent School. He further submitted that the petitioner was not paid with any terminal benefits. Therefore, he prays to allow this writ petition.



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5. The learned Government Advocate appearing for the respondent has filed a counter affidavit and submitted that the petitioner was temporarily appointed as a part-time Computer Instructor vide proceedings dated 05.06.1990. The appointment order dated 05.06.1990 clearly indicates that the petitioner was appointed as a part-time computer instructor and was paid a consolidated salary of Rs.780/- per month. She further submitted that the petitioner completed his Bachelor's degree in Mathematics from the University of Kerala in 1984 and B.Ed. through correspondence from Annamalai University in 1993. Additionally, the petitioner completed certificate courses in Advanced Basic Programming and “COBOL” programming in the year 1986 from unrecognized private institutions. She further submitted that the petitioner has no formal education in computer science from any recognized institution. Since the petitioner did not possess the requisite minimum qualification as per G.O.Ms.No.140, School Education (HS2) Department, dated 19.05.2010, the petitioner lacks the basic qualification to continue as Computer Instructor. Hence, the respondent school issued the show-cause notice considering the future of school children and the need for a qualified and skilled trainer to impart advanced computer education in consonance with the latest developments in Information Technology.



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6. The learned Government Advocate appearing for the respondents further submitted that the Government had issued order to streamline the educational qualification for the incumbent candidates for the post of computer instructor in G.O.(Ms) No.26, School Education (SE7-1) Department dated 12.02.2019. As per the said G.O., the minimum educational qualification for the post of Computer Instructor is extracted hereunder:

“Master's Degree in Engineering or Technology in Computer Science / M.Tech Degree in Computer Science / Computer Engineering / Information Technology / Software Engineering from any recognized University or its equivalent

and B.Ed./B.A.Ed./B.Sc.Ed., by recognized University or its equivalent.

Or Master's Degree in Computer Applications / Master's Degree in Computer Science or Information Technology from any recognized University or its equivalent

and B.Ed./B.A.Ed./B.Sc.Ed., by recognized University or its equivalent.

Further it is submitted that petitioner has completed his school education in Malyalam medium and has failed to pass the language test in Tamil as a Regional Language while demanding for Pay scale in par with Computer Instructors appointed in government schools as he should have passed the Test within Two



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years of appointment as per G.O.Ms.No.89, P & AR (Per.S) dt.9-2-96.”

She further submit that the petitioner has not passed Tamil Paper which is compulsory for regularization of service and furthermore, he has received all the terminal benefits entitled for him and is ineligible for retirement benefits, as no salary deductions were remitted to the Government due to non-regularization of service. Therefore, this writ petition is liable to be dismissed.

7. In view of the above submissions made by the learned counsel on either side, this Court has observed that the petitioner does not possess the required qualification for regularization of his service in the post of Computer Instructor, this writ petition lacks merit and is liable to be dismissed. However, the respondents are directed to release forthwith whatever terminal benefits the petitioner is entitled to. Accordingly, this writ petition is dismissed. No costs. Consequently, connected writ miscellaneous petitions are closed.

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Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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VIVEK KUMAR SINGH. J,

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To

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Higher Secondary Education Department,
Nungambakkam, Chennai – 600 006
2. The Breeks School Management Committee,
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District Collectorate,
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