



WEB COPY



W.P.No.11135 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.11135 of 2022

P.Arulendran

... Petitioner

Vs.

1.The State of Tamilnadu,
Rep. By its
Secretary to Government,
School Education Department,
Secretariat,
Chennai

2.The Director of School Education,
College Road,
Chennai-6

3.The Chief Educational Officer,
Vellore District

4.The District Educational Officer,
Vellore

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for records on the file of the first respondent in Letter No.726/Pa.Ka.4(1)2020 dated 03.09.2020 and to quash the same as illegal incompetent and without jurisdiction and further direct the respondents to regularize the service of



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the petitioner with effect from the date of initial appointment in the post in which he was appointed and pay monetary benefits to the petitioner who is working as Office Assistant at Thiru Muruga Kribanandha Variyar Government Boys Higher Secondary School, Kankeyanallur.

For Petitioner : M/s.R.Poornima

For Respondents : Mr.S.Arumugam,
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 03.09.2020 thereby rejected the request made by the petitioner to regularise his service with effect from the date of initial appointment in the post of Office Assistant.

2. The petitioner was appointed as Office Assistant by the Parent Teachers Association on 01.07.2005 at Thiru Muruga Kirubanandha Variyar Government Boys Higher Secondary School in Kankeyanallur. He was paid consolidated salary by the school. However his service was not regularised so far. As per GO.Ms.No.47 dated



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02.03.2012, 5000 sweepers and allied non-teaching staff sought to be recruited on special scale of pay. However, the Government had rejected the claim of some of the adhoc employees and new recruits were sought to be made relying the Government Order.

3. The learned counsel for the petitioner contended that similarly placed persons approached this Court and this Court directed the respondents to regularise the service of the similarly placed persons with effect from their original appointment. It was also confirmed by the Hon'ble Division Bench of this Court. It is now challenged before the Hon'ble Supreme Court of India and it is pending.

4. On perusal of the affidavit filed in support of the writ petition revealed that the petitioner made representation to the respondents to regularise his service on the ground that he had rendered 14 years of service and he was paid only consolidated salary. This Court by order dated 20.11.2019, directed the respondents to consider the request made by the petitioner and pass appropriate orders on merits and



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in accordance with law. However, it was rejected by the order dated 03.09.2020. In fact, even before it, the petitioner was not engaged by the school. Though, according to the petitioner, he was prevented from discharging his duty on account of the impugned order, the petitioner failed to make any representation to reinstate into service. Therefore, from the year 2020 onwards, the petitioner was not engaged by the respondents in the post of Office Assistant. As such, the judgment cited by the learned counsel for the petitioner is not helpful to the case on hand since the petitioners concerned approached this Court while they were in service. Therefore considering the same, this Court directed to regularise their services, whereas the petitioner's service is not engaged by the respondents even from the year 2020.

5. That apart, admittedly the petitioner was appointed by the Parent Teachers Association without competency for appointing non teaching employee. The appointment was not made adopting any procedure contemplated in Tamilnadu Basic Service Rules, Tamilnadu State and Subordinate Service Rules with regard to age qualification,



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general educational qualification, application of rule of reservation and in consultation with employment exchange. Therefore, there is no justification in the request made by the petitioner seeking retrospective regularisation of his service. That apart, the petitioner was appointed on temporary basis, that too on consolidated salary. Therefore, the request made by the petitioner was rightly rejected by the first respondent and this Court finds no infirmity or illegality in the order passed by the first respondent.

6. Accordingly, this writ petition is dismissed. There shall be no order as to costs.

09.01.2024

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

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2. The Director of School Education,
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