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W.P.No.12466 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.04.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.12466 of 2019

1. S.Sekar
2. James Kanakaraj Jon
3. P.Ramasamy
4. N.Subramanian

... Petitioners

Vs.

1. The State of Tamil Nadu,
Rep. by the Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai – 600 009.
2. The Director of School Education,
Chennai – 600 006.
3. The District Educational Officer,
Perambalur, Permbalur District.
4. The Assistant Elementary Educational Officer,
Permbalur, Perambalur District.
5. The Correspondent,
Thanthai Hans Rover Higher Secondary School,
Permbalur – 621 212.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 3rd respondent in his proceedings Na.Ka.No. 6277/ Aa1/ 2015 dated 28.03.2017 and quash the same and direct the respondents to regularize the services of the petitioners from the date of their appointment and count them for pensionary benefits.

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

For Respondents : Mr.K.H.Ravikumar,
Government Advocate

ORDER

The Writ Petition has been filed aggrieved by the proceedings bearing Na.Ka.No. 6277/ Aa1/ 2015 dated 28.03.2017, whereby the claim of the petitioner for counting of his service rendered prior to acquisition of requisite qualification of Child Psychology training for the purposes of awarding of selection grade/ special grade pay, periodical increment and leave benefits was rejected by the respondents.

2. The appointment of the petitioner herein as B.T.Assistant was found



to be defective, as the same was contrary to various Government orders.

When the issue came up before this Court, a concession was made by the then learned Additional Advocate General appearing for the respondent State to continue the petitioner therein in service subject to acquiring the requisite qualification of Child Psychology training and accordingly, G.O (Ms) No.155, School Education (D2) Department dated 03.10.2002 came to be issued. It is only by virtue of a concession that was extended in favour of such candidates, they were allowed to continue in service. The petitioner is one among such candidates, who is being continued in service in terms of the said Government order. In terms of the said Government Order, the beneficiaries are entitled to count the service rendered by them prior to acquiring requisite qualification to hold the respective posts, only for the purpose of pensionary benefits, but not for any other purposes such as selection grade, special grade, periodical increments, leave benefits etc., The very same issue has fallen for consideration in number of cases before this Court and this Court has taken the same view which is reiterated by the respondents in the counter-affidavit in this Writ Petition, which reads as under:-

“ 2) It is most respectfully submitted to the



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Hon'ble Court that as per G.O. No. 155, School Education (D2) department dated 03/10/2002, the petitioners were given appointment approval in the government service only on 02/06/2003, immediately the very next day he completed the training on Child Psychology.

3) It is further submitted that as per G.O.M.S. No 155, School Education (D2) department dated 03/10/2002, the petitioners were sent for child psychology training and their appointments were subsequently regularized and salary paid with effect from the 02/06/2003, the very next day of the completion of the training.

4) It is further humbly submitted that as per G.O.M.S. No.413 DATED 04/11/2010, the service rendered by petitioners before child psychology training that is from 02/03/1998 to 01/06/2003 shall count only for pensionary benefits and are not eligible for service benefits namely selection grade, special grade, Periodical increment and leave benefits for the aforesaid period as they had worked without required qualification that is without child psychology training which is mandatory



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3. The learned counsel for the petitioner as well the learned Government Advocate have fairly submitted that the petitioner is only entitled for counting of the past service only for the purpose of his pensionary benefits but not any other benefits.

4. In the light of the above, this Court does not find any error or illegality in the impugned order passed by the 3rd respondent. Accordingly, the Writ Petition is disposed of by making it clear that the petitioner shall be entitled to count the service rendered by him prior to the date of completing the Child Psychology training only for the purpose of calculating the pensionary benefits. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

22.04.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Secretary to Government of Tamil Nadu,
School Education Department, Secretariat, Fort St.George,



Chennai – 600 009.

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MUMMINENI SUDHEER KUMAR, J.

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