



WEB COPY



WP.No.27156 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.01.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.27156 of 2021

D.Seetharama

...

Petitioner

Vs.

Union of India,
Represented by
Secretary,
Atomic /Energy Education Society,
Central Office, AECS No.8,
Western Sector, Anushakthi Nagar,
Mumbai 400 094

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for entire records in the order of the respondent letter dated 09.02.2021 and quash the same and direct the respondent to grant the benefits of the Senior Scale to the petitioner from 01.06.1999.

For Petitioner : Mr.M.Sriram
for M/S.M/s.Chennai Law Firm

For Respondent : Mr.R.Rajesh Vivekanathan,
Addl. Solicitor General



WP.No.27156 of 2021

ORDER

The petitioner has filed this Writ Petition challenging the order of the respondent's letter dated 09.02.2021 and to direct the respondent to grant the benefits of the Senior Scale to the petitioner from 01.06.1999.

2. The petitioner had joined the service as a trained graduate teacher (TGT) on 16.06.1987 in the respondent organisation and retired on 31.01.2021 on attaining superannuation. The respondent communicated the adverse remarks in the annual confidential reports for the years 1997–98, 2000–01, 2001–02, and 2002–03. Due to adverse remarks in the Annual Confidential Reports, the petitioner was not granted senior scale. Based on the representations from the petitioner, the respondent deleted adverse remarks with prospective effect only (with effect from 01.06.2006).

3. Heard, Mr.M.Sriram, learned counsel for the petitioner and Mr.R.Rajesh Vivekanathan, learned Addl. Solicitor General for the respondent and perused the materials available on records.

4. It is submitted by Mr.M.Sriram, learned counsel for the petitioner that the legal impact of deleting the adverse remarks would relate back retrospectively. The petitioner had made a request to grant her the senior scale of pay with



retrospective effect in view of the subsequent expungement of the adverse remarks. But the request of the petitioner was considered by the respondent and the same was rejected and the said order dated 09.02.2021 was communicated to the petitioner well. Aggrieved over that the petitioner has filed this Writ Petition by challenging the order dated 09.02.2021 and praying for a Writ of Certiorarified Mandamus.

5. In the above order, the following has been stated as the reason for not considering the request of the petitioner:

“3. It is on record that the duly constituted DPC found during the years 2000 to 2003 and 2005 and 2006 that Shri D Seetharama was not meeting the required benchmark ACR gradings for grant of Senior Scale irrespective of any adverse remark being present or his having cleared the Teachers' Test. In the year 2004 there was no DPC meeting. Shri D Seetharama cleared the Teachers' Test in September, 2005. As DPC met in 2007 (i.e. 07/02/2007) found that he was meeting all the parameters for grant of Senior Scale w.e.f. 01/06/2006, the DPC recommended his case to grant Senior Scale w.e.f. 01/06/2006. The said DPC recommendations were conveyed to him vide AEES O.M. dated 18/04/2007.

4. In view of the above, the competent authority has directed to convey that the DPC recommendations for grant of Senior Scale to Shri D Seetharama w.e.f. 01/06/2006 holds good and thus there is no scope for further review in his case.”



WEB COPY

6. Even though the adverse remarks pertain to the period between 2002–2003 and 2005–2006, the petitioner cleared the Teacher Eligibility Test in September 2005. So the reason for not considering the petitioner for granting the senior scale is not only due to adverse remarks in ACR but also in view of the other gradings in respect of her performance and non clearance of the teacher eligibility test. The clearance of the adverse remarks can be considered for the petitioner's future promotion. But it cannot be claimed that the petitioner is entitled to the monetary benefits retrospectively, in view of the expungement of the adverse remarks.

7. Further, the *petitioner* has also considered the legal position on the impact of expunging the adverse remarks with retrospective effect. The respondents cited the judgement of the Hon'ble Supreme Court held in ***(2018) 5 SCC 798 [Union of India and Others Vs. Charman Rana]***, in support of his contention that repeated filing of the representations could not be a sufficient explanation for the delay in approaching the Court for



WP.No.27156 of 2021

seeking a relief, the petitioner has been keeping quiet for years, even though his explanation was not accepted for expunging the remarks. She has not initiated any legal proceedings for challenging the same. For the reasons best known to the respondents, the adverse remarks were expunged subsequently, probably taking into consideration of her future career prospects.

8. As there are other persons for not considering the petition for senior scale and the petitioner had not challenged the earlier orders rejecting her representation for expunging her adverse remarks, I find no merits in this petition.

Hence, this Writ Petition stands **dismissed**. No costs.

29.01.2024

Index : Yes/No

Internet : Yes/No

Speaking/Non-speaking

Neutral Citation : Yes/No

jrs



WEB COPY



WP.No.27156 of 2021



WEB COPY



WP.No.27156 of 2021

R.N.MANJULA, J.

jrs

To

The Secretary
Union of India,
Atomic /Energy Education Society,
Central Office, AECS No.8,
Western Sector, Anushakthi Nagar,
Mumbai 400 094.

W.P.No.27156 of 2021

29.01.2024