



W.A. No.2392 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 09.09.2024

DELIVERED ON: 04.10.2024

CORAM:

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and**

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.2392 of 2024

D.Anjaneyulu

.. Appellant/Petitioner

Vs

- 1.The State of Tamil Nadu,
Rep by its Secretary to Government,
School Education Department,
Secretariat Fort St. George,
Chennai 600 009.
- 2.The Director of Elementary Education,
Chennai – 6.
- 3.The Chief Educational Officer,
Krishnagiri, Krishnagiri District.
- 4.The District Educational Officer (Secondary),
Dharmapuri, Dharmapuri District.
- 5.The District Educational Officer (Secondary),
Hosur, Krishnagiri District.
- 6.The Block Educational Officer,



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Shoolagiri Union,
Krishnagiri District.

..Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 16.04.2024 made in W.P. No.10431 of 2024 and allow the present Writ Appeal.

For Appellant : Mr.P.Ganesan

For Respondents : Mr.J.C.Durairaj,
Additional Government Pleader.

J U D G M E N T

(Judgment of the Court was made by MR.JUSTICE P.B.BALAJI, J.)

The Writ Petitioner, aggrieved by dismissal of W.P. No.10431 of 2024, dated 16.04.2024, has come up by way of the present Writ Appeal.

2. The parties are described as per their litigative status before the Writ Court.

3. The petitioner sought for issuance of Writ of Mandamus to direct the first respondent State to consider his claim under Rule 40(1) of the Tamil Nadu Pension Rules, 1978 for sanctioning compassionate allowance, not



exceeding two thirds of pension or gratuity, or both, which would have been admissible to him, if he had retired on his Medical Certificate, by considering the petitioner's representation dated 08.03.2021.

4. The specific case of the petitioner before the Writ Court was that he joined duty as a Secondary Grade Head Master (Telugu) on 26.07.1965 and was duly granted Selection Grade Pay and other benefits. In the year 1988, he was posted as Secondary Grade Head Master at Panchayat Union Primary School, Goraguriki, Shoolagiri Union. On and from 09.12.1998, he was not in a position to attend School and he had also failed to inform the Higher Authorities as he was taking treatment in an Ashramam in Andhra Pradesh for his ill health. Subsequently, the petitioner attained the age of superannuation on 31.05.2002.

5. Considering the unauthorised absence, the respondents initiated Disciplinary Proceedings and by an order dated 29.05.2002, the petitioner was removed from service. Thereafter, the petitioner started making his representations to the respondents from the year 2007 onwards, seeking compassionate allowance as provided under Rule 40(1) of the Tamil Nadu



Pension Rules, 1978.

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6. The respondents resisted the said Writ Petition on the ground that the petitioner was unauthorisedly absent and after initiating Disciplinary Proceedings, the petitioner was also removed from service and at that time no compassionate allowance was granted. Even as early as on 27.08.2021, the respondents informed of the petitioner that he was removed from service on 31.05.2002 itself and therefore, he would not be entitled from any pension or gratuity.

7. The Writ Court, considering the contentions of the petitioner and the respondents, dismissed the Writ Petition rejecting the prayer regarding compassionate allowance and directing the respondents to pay the petitioner other pending benefits like Provident Fund, Special Provident Fund, Earned Leave etc., within a period of eight weeks.

8. We have heard the learned counsel on either side. We have also perused the records including the impugned order.



9. Admittedly, the petitioner has not challenged his removal from service, in and by an order dated 29.05.2002, except for making representations beginning in the year 2007. The petitioner has not taken any steps to recall or set aside the order passed in the Disciplinary Proceedings which have become final. The short gamut on which the petitioner seeks compassionate allowance is only by placing reliance on Rule 40(1) of Tamil Nadu Pension Rules, 1978. However, at the time of passing the order of removal of the petitioner from service, the respondents did not grant any compassionate allowance as permissible under Rule 40 of the Tamil Nadu Pension Rules, 1978. Therefore, if at all the petitioner was aggrieved by the said order, the petitioner ought to have taken up the matter by way of further Appeal, in a manner known to law. Without doing so and having accepted the order dated 29.05.2002, the petitioner has merely flooded the respondents with repeated representations seeking compassionate allowance. In fact, in one of the communication dated 27.08.2021, the respondents have also informed the petitioner that he was not entitled to any compassionate allowance. Even thereafter, the petitioner has slept over the issue and approached this Court and filed the Writ Petition only in 2024. Further, the petitioner was removed from service only on the ground of unauthorised



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absence for close to three and half years and all these factors have been rightly taken note of by the Writ Court while declining relief of compassionate allowance to the Writ Petitioner.

10. We see no reasons or justifiable grounds to interfere with the well reasoned order of the Writ Court. Consequently, this Writ Appeal is dismissed. No costs.

(D.K.K.J.,) (P.B.B.J.,)

04.10.2024

Internet: Yes/No
Index : Yes/No
Speaking Order/Non Speaking Order
rkp

To
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School Education Department,
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2.The Director of Elementary Education,
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D. KRISHNAKUMAR. J.,

and

P.B.BALAJI, J.

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Pre-delivery Judgment in
W.A.No.2392 of 2024

04.10.2024