IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.22407 of 2023
and W.M.P.Nos.21802 & 21803 of 2023

S.Saradha ... Petitioner

Vs.

1.The Chairman,
Interim Management Committee,
Sree Muthukumarasamy Devasthanam Educational Society,
(Regn. No.319/1979)
No.44, Rajappa Chetty Street,
Park Town,
Chennai – 3.

2.The Chairman,
Sree Muthukumarasamy Devasthanam Educational Society,
No.44, Rajappa Chetty Street,
Park Town,
Chennai – 3.

3.The Central Board of Secondary Education,
Rep. by its Secretary,
Administration, Affiliation & Finance,
Shiksha Kendra, No.2,
Community Centre,
Delhi – 110 301.

4.The Regional Officer,
Central Board of Secondary Education,
Chennai Region,
New No.3, Old No.1630 A,
'J' Block, 16th Main Road,
Anna Nagar West, Chennai – 40. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondents in connection with the impugned order passed by the 1st respondent dated 23.06.2023 and quash the same and direct the respondents to permit the petitioner to continue in service as Principal of the SMK Vidhyashram (CBSE) Junior College, Chennai 118 till 30.04.2025 and grant her all consequential service and monetary benefits.

For Petitioner	: Mr.Arun Anbumani for Mr.M.Durai Pandian
For Respondents	: Mr.R.Bharanidharan Standing Counsel

ORDER

This writ petition has been filed challenging the impugned order passed by the 1st respondent dated 23.06.2023 and for a consequential direction to the respondents to permit the petitioner to continue in service as Principal of the SMK

Vidhyashram (CBSC) Junior College, Chennai (herein after referred to as "the School").

2.The case of the petitioner is that she joined the School as a Principal from 02.05.2018. She was continuing in the said position and was performing her duty to the best of her ability. The petitioner further claims that she was responsible for getting affiliation for the said School and there are classes from Pre.K.G., to XII Standard under CBSE syllabus. It is stated that there was some dispute among the Board Members and an interim arrangement was made by this Court by appointing a Chairman for the Interim Management Committee in order to run the Society and its properties. As a result, the running of the School came within the fold of this Interim Management Committee.

3.The grievance of the petitioner is that her date of birth is on 08.04.1963 and that she will complete 60 years only on 07.04.2023. The academic year for CBSE Schools starts from 01.04.2023 and ends on 31.03.2024. As per the prevailing Rule 30.1, every employee including the head of Institution shall retire from service on attaining the age of 60. However, if the age of superannuation falls during the academic session, the concerned employee will retire only at the end of the academic session. By relying upon this Rule, the petitioner claims that since she will complete her 60 years only during the academic session, she must have been allowed to retire from service only on 31.03.2024. However, through the impugned communication dated 23.06.2023, the petitioner was relieved from service effective from 31.07.2023. Aggrieved by the same, the present writ petition has been filed before this Court challenging the impugned communication dated 23.06.2023 and for consequential reliefs.

4.It is also relevant to take note of the fact that no interim order was granted in favour of the petitioner and therefore, there was no occasion for the petitioner to rejoin the School and as a consequence as on 31.03.2024, the academic year also came to an end. Therefore, what remains is only the service/terminal benefits claimed by the petitioner for this period.

5.The 1st respondent has filed a counter affidavit. The 1st respondent has taken a stand that the management Committee received the details of the teaching and non-teaching staffs working in the School as regards the date of joining, their experience, salary and age on 13.06.2023 from the School staffs. Only thereafter, the Interim Management Committee came to know that the petitioner had attained the age of 60 as early as on 07.04.2023. It is further stated that no service rules have been specifically designed for the School in question and therefore, only G.O.(Ms)No.115, dated 28.06.2022 will apply to the case in hand. Hence, it is contended that the teachers who are working in the Government Schools or Government aided Schools and are attaining superannuation in the middle of the academic session, could be re-employed up to the end of the academic session subject to the condition that the conduct of the teacher is satisfactory and he/she is having good health to continue in service. According to the 1st respondent, the bye-law that has been relied upon by the petitioner will not apply, since the 3rd respondent has brought in new Affiliation Bye-Laws 2018 and in terms of that bye-law, there is no regulation providing for the extension of service or re-employment. In the counter affidavit, several allegations have been made with regard to the running of the School and reasons as to why there was no cordial atmosphere prevailing in the School. It is further stated in the counter that the Vice Principal who has been appointed by the petitioner continues to manage the School and it is brought to the notice of this Court that she is now acting as a

Principal of the School. Finally, it is stated that the petitioner was receiving a salary of Rs.95,000/- and therefore, considering the financial status of the Society, there will be a huge financial outflow if the service benefits are to be paid to the petitioner and that the Society is not in a position to pay such a huge amount. In any event, a specific stand has been taken to the effect that the Interim Management Committee was not willing to extend the services of the petitioner and therefore, the impugned communication dated 23.06.2023 was issued to the petitioner and she was relieved from service w.e.f. 31.07.2023. Accordingly, the respondents have sought for the dismissal of this writ petition.

6.Heard Mr.Arun Anbumani, learned counsel appearing on behalf of the petitioner and Mr.R.Bharanidharan, learned Standing Counsel appearing on behalf of respondents 1 and 2.

7.This Court has carefully considered the submissions made on either side and also the materials available on record.

8.The short issue that arises for consideration is as to whether the petitioner was entitled to be continued in the post of Principal till the end of the academic year I.e., upto 31.03.2024 by virtue of the relevant Rule governing the field.

9.The Society which was running the School ran into rough weather and hence, an Interim Management Committee has been appointed and it is now headed by a Chairman being the retired Judge of this Court. There is no dispute with regard to the date of birth of the petitioner who was born on 08.04.1963 and she should have completed 60 years on 07.04.2023. The petitioner has claimed that the academic year for the CBSC Schools commences from 01.04.2023 and it ends with 31.03.2024. Therefore, since 60 years gets completed only on 07.04.2023, it is contended that it falls during the academic session.

10.It will be quite relevant to take note of the fact that the functioning of the petitioner in her capacity as a Principal was not quite effective from 31.01.2023 onwards. The petitioner was not able to come to School and perform her job as a Principal atleast from 31.01.2023 till the date of rejoining on 28.04.2023. During this period, the petitioner availed leave on the ground that her daughter met with an accident and as a result, she sustained spine injury and multiple injuries and therefore, the petitioner has to be present along with the daughter right through the rehabilitation process. The Management had permitted the petitioner to stay on leave and except for six days casual leave, the rest of the period was treated as a leave without pay. In the interregnum, the petitioner also recommended one Mrs.Uma to the post of Vice Principal and the same was accepted and she continued to take care of the affairs of the School in her capacity as the Vice Principal.

11.It is not necessary for this Court to go into the various allegations that have been raised in the counter affidavit and it is quite irrelevant in order to decide the case in hand.

12.The petitioner is relying upon Rule 30.1 of the Affiliation bye-laws which was in force as on 18.02.2014. This bye-laws state that where an employee or a head of institution will reach the age of superannuation during the academic session, they will retire only at the end of the academic session.

13.The above Rule subsequently underwent a change in the year 2018 which came into effect from 18.10.2018 and such extension of service was removed. However, the Rule that was in force as on the date when the petitioner joined the service on 02.05.2018 permitted such extension of services. The petitioner wants to take advantage of this Rule in order to continue her as a Principal till the end of the academic year.

14.Its very important to understand the purpose and the object behind the Rule. This rule has been brought in to ensure that the students or the Management of the School does not suffer due to the retirement of a teacher or head of institution in the course of an academic year. If any such retirement takes place, it will become very difficult to accommodate another person in that place during the academic year and it will have an adverse impact on the students and the Management of the School. This object must be kept in mind while dealing with this Rule and there is no use in mechanically applying this Rule.

15.In the instant case, the retirement age of the petitioner fell on 07.04.2023, which is exactly seven days after the commencement of the academic year on 01.04.2023. That apart, the petitioner due to various reasons, which may even be genuine, was not attending the School from 31.01.2023 till 28.04.2023 when she was permitted to rejoin duty. Therefore virtually for four months period the School was functioning under the stewardship of the Vice Principal who was appointed by the petitioner. There was also an Interim Management Committee which was appointed to take care of the Society and its properties which were headed by a Chairman. It took some time for the Interim Management Committee to get all the details regarding the teaching and non-teaching staffs working in the School. It is mentioned in the counter affidavit that such materials were received by the Committee only on 13.06.2023. After receiving the same, the Chairman of the Interim Management committee found that the petitioner has already completed 60 years and therefore, thought it fit to relieve the petitioner from service. The Chairman was also inclined to give some time to the petitioner till 31.07.2023 to relieve from the post of Principal. While undertaking this exercise, probably the Chairman of the Interim Management Commencement was not focusing on the relevant Rule and the Chairman had merely gone by the age of the petitioner and the prevailing circumstances including the financial affairs of the Society.

16.As above stated, the Rule that was relied upon by the petitioner may create a right in favour of the petitioner to retire at the end of the academic year. However, this Rule should never be implemented without a purpose. For instance, if the retirement age of a person falls one day immediately after 01.04.2023, it will be too artificial to say that the services of the person must be extended till the end of the academic year. In the case of the petitioner it is seven days from the day on which the academic year started. Considering the fact that the petitioner was not managing the affairs during the period from 31.01.2023 to 28.04.2023 and also considering the fact that the petitioner had crossed only seven days from the start of the academic year while completing 60 years, this Court is of the considered opinion that the services of the petitioner need not be extended till the end of the academic year. There is yet another important fact that has to be kept in mind. There were large scale financial irregularities committed by the Society and as a result, the Interim Management Committee has been appointed which is headed by a Chairman and there has been considerable reduction in the number of students in the School and therefore, to continue with the petitioner by paying her a high monthly salary, will also not be in the interest of the Institution. Continuing a person beyond the date of retirement virtually amounts to re-appointing a person till the end of the academic year. Therefore, the object behind such re-appointment must be taken into consideration while dealing with the issue. Therefore, the impugned letter dated 23.06.2023 issued by the 1st respondent to the petitioner relieving the petitioner from service effective from 31.07.2023 cannot be held to be illegal.

17.Considering the entire facts and circumstances of the case, this Court is not inclined to exercise its writ jurisdiction and grant the relief as sought for by the petitioner.

18.Accordingly, this writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

13.08.2024

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
ssr

To

1.The Chairman,
Interim Management Committee,
Sree Muthukumarasamy Devasthanam Educational Society,
(Regn. No.319/1979)
No.44, Rajappa Chetty Street,
Park Town,
Chennai – 3.

2.The Chairman,
Sree Muthukumarasamy Devasthanam Educational Society,
No.44, Rajappa Chetty Street,
Park Town,
Chennai – 3.

3.The Secretary,
Central Board of Secondary Education,
Administration, Affiliation & Finance,
Shiksha Kendra, No.2,
Community Centre,
Delhi – 110 301.

4.The Regional Officer,
Central Board of Secondary Education,
Chennai Region,
New No.3, Old No.1630 A,
'J' Block, 16th Main Road,
Anna Nagar West, Chennai – 40.

N. ANAND VENKATESH, J.

ssr

W.P.No.22407 of 2023
and W.M.P.Nos.21802 & 21803 of 2023

13.08.2024