



W.P.(MD).No.6679 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.6679 of 2021

R.Raja Selvasingh

...Petitioner

Vs.

- 1.The Secretary to Government,
School Education Department,
Secretariat,
Fort St. George,
Chennai-06.
- 2.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
- 3.The Chief Educational Officer,
Kanyakumari District, at Nagercoil.
- 4.The District Educational Officer,
Thiruvattar,
Kanyakumari District.
- 5.The Correspondent,
Higher Secondary School,
Mottakkala,
Edaicode Post,
Kanyakumari District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 3rd respondent pertaining to its proceedings bearing Oo.mu.No.30/A2/2021 dated 05.02.2021 and to quash the same and consequently direct the 3rd respondent to regularize the service of the petitioner from the date of appointment that is from 01.06.1994 to 20.03.2009 as Vocational Instructor and to pay the arrears of salary from 01.06.1994 to 20.03.2009 and to compute the service from 01.06.1994 to 20.03.2009, rendered by the petitioner in the 5th respondent school along with the present service of the petitioner for calculating the pensionary and other monetary benefits by including the petitioner in the old pension scheme by considering the representation of the petitioner dated 04.10.2018 and the proposal of the 5th respondent dated 05.10.2019 within a time frame that may be fixed by this Court.

For Petitioner : Mr.S.C.Herold Singh

For R-1 to R-4 : Mr.M.Sarangan,
Additional Government Pleader

For R-5 : No appearance

ORDER

The present writ petition has been filed to quash the impugned proceedings bearing Oo.mu.No.30/A2/2021 dated 05.02.2021 and consequently



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directing the 3rd respondent to regularize the service of the petitioner from the date of appointment that is from 01.06.1994 to 20.03.2009 as Vocational Instructor and to pay the arrears of salary from 01.06.1994 to 20.03.2009 and to compute the service from 01.06.1994 to 20.03.2009, rendered by the petitioner in the 5th respondent school along with the present service of the petitioner for calculating the pensionary and other monetary benefits by including the petitioner in the old pension scheme by considering the representation of the petitioner dated 04.10.2018 and the proposal of the 5th respondent dated 05.10.2019.

2. The brief facts which are necessary for the disposal of this Writ Petition is as follows:-

2.1. The petitioner completed his 12th standard during October 1987. Thereafter, he had undergone vocational training conducted by the National Council in Electrician and completed the same during January 1991. While so, a vacancy was available in the 5th respondent School for the post of Vocational Instructor. Since the petitioner was eligible to the said post, he applied for the same and after considering his eligibility, he was appointed as Electrical



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Vocational Instructor in the 5th respondent School by the proceedings of the 5th respondent bearing R.C.No. 43/1992 dated 01.06.1992. In the meanwhile, the petitioner also completed B.A., in Tamil, B.Ed., and M.A., in Tamil. The respondent permitted the petitioner to be appointed as Part Time Vocational Instructor with effect from 01.06.1994 and pursuant to the same, the 5th respondent School had sent a proposal to approve his appointment as Vocational Instructor. However, the same was rejected by the Chief Educational Officer, Nagercoil that the petitioner did not possess the requisite qualification for the said post. Challenging the same, the writ petitioner filed a writ petition in W.P.(MD)No. 3854 of 2007.

2.2. While he was working as a Vocational Instructor in the 5th respondent School, there arose a vacancy in the post of PG Assistant in Tamil due to the retirement of one J.Nirmala on attaining the age of superannuation on 31.05.2008. In the said vacancy, which had arisen due to the retirement of the erstwhile incumbent Mrs.J.Nirmala, the petitioner made an application to the 5th respondent School for appointing him to the said post. After considering his eligibility, the petitioner was appointed as PG Assistant in Tamil with effect



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from 21.03.2009. Thereafter, the 5th respondent School had sent a proposal to approve his appointment as PG Assistant in Tamil and on receipt of the proposal, the 4th respondent insisted the writ petitioner to withdraw the writ petition in W.P.(MD)No. 3854 of 2007. Consequently, he withdrew the said writ petition and thereafter, the 4th respondent approved his appointment as PG Assistant in Tamil with effect from 21.03.2009.

2.3. The petitioner had worked as Vocational Instructor from 01.06.1992 to 20.03.2009 and the same was not considered by the respondents for calculating his service as well as pensionary benefits. The respondents ought to have approved his service from the date of his initial appointment, that is, from 01.06.1994 to 20.03.2009 as Vocational Instructor and calculated the said period for his pensionary benefits. However, his request to include him in old pension scheme was kept pending without any process. Hence, on 04.10.2018, he had sent a representation to the respondents in this regard. Pursuant to the application submitted by the petitioner, the 5th respondent had sent a proposal to calculate 50% of the period which he had served from 01.06.1992 to 20.03.2009 for the purpose of disbursing pension. However, the 3rd respondent,



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vide his proceedings in Oo.Mu.No.30/A2/2021 dated 05.02.2021 returned the proposal of the 5th respondent saying that he was appointed in the post of Vocational Instructor which was not permitted by the Government and that he also did not possess the minimum qualification as prescribed by the Government to hold the post of Vocational Instructor.

2.4. However, in similar circumstances, one Mr. C. Sudhin and one Mr. P. Ratha Ramanan approached this Court in W.P.Nos. 29301 and 29302 of 2006 respectively. Pursuant to the order of this Court in the aforesaid writ petitions, the 1st respondent issued G.O(2D)No. 83 dated 27.11.2014 by which their appointments were approved by relaxing the minimum qualification prescribed by the Government and also by relaxing the training to be attended by the said employees. The writ petitioner claiming him to be a similarly placed person like that of Mr.C.Sudhin and that of Mr.P.Ratha Ramanan has filed this writ petition, challenging the order passed by the 3rd respondent, vide proceedings bearing Oo.Mu.No.30/A2/2021 dated 05.02.2021 and seeking to direct the 3rd respondent to regularize his service from the date of his appointment as Vocational Instructor from 01.06.1994 to 20.03.2009 and to pay



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arrears of salary for the aforesaid period and to compute the service rendered by the petitioner as Vocational Instructor for the purpose of pensionary and other monetary benefits.

3. The 4th respondent has filed a counter affidavit and the learned Additional Government Pleader, Mr.M.Sarangan submitted that the case of Mr. C. Sudhin and Mr. P. Ratha Ramanan who had filed W.P.Nos. 29301 and 29302 of 2006 respectively will not be applicable to the facts and circumstances of this case, because the petitioner herein had been appointed as a Vocational Instructor in an unsanctioned post whereas the other two persons Mr.C.Sudhin and Mr. P. Ratha Ramanan were appointed in sanctioned posts in their respective schools.

4. Heard, the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 4 and carefully perused the materials available on record.



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5. Fully satisfied by the submission made by the learned Additional Government Pleader that the petitioner was appointed as Vocational Instructor as early as on 01.06.1992 with effect from 01.06.1994 in a post which was not sanctioned by the competent authorities and distinguishing the same from the case of one Mr. C. Sudhin and one Mr. P. Ratha Ramanan who were appointed in sanctioned posts, the petitioner cannot claim to be treated at par with those employees. That apart, neither the petitioner nor the 5th respondent School had taken diligent steps to get the post sanctioned from the competent authorities and having not done the same and having been appointed as a PG Assistant in Tamil on 21.03.2009 in the 5th respondent School, the petitioner after a delay of more than 9 years ought not to have claimed the respondents to calculate 50% of the period from 01.06.1992 to 20.03.2009 for the purpose of disbursing his pension and other monetary benefits.

6. Though the petitioner claims that he was permitted to be appointed as Part-Time Vocational Instructor with effect from 01.06.1994 by the competent authorities, he had not produced any document to prove the same. That apart, he has already withdrawn the writ petition in W.P.(MD)No.3854 of 2007 which



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he had filed seeking to approve the proposal which had been sent by the 5th respondent School to approve his appointment as Vocational Instructor. The petitioner has also failed to produce the order of rejection made by the Chief Educational Officer, Nagercoil rejecting the proposal of the 5th respondent School to approve his appointment as Vocational Instructor. In view of the same, the case of the writ petitioner fails.

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

03.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

1.The Secretary to Government,
School Education Department,
Secretariat,
Fort St. George,
Chennai-06.



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L.VICTORIA GOWRI, J.

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