



W.P.(MD).No.7605 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.7605 of 2024

T.N.Russel Raj

...Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St., George, Chennai-600 009.

2.The Director of School Education,
College Road, Chennai-600 006.

3.The Chief Educational Officer,
Kanyakumari District at
Nagercoil-629 001,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to treat the period from 24.08.2016 to 30.08.2017 also as duty period for the purpose of counting service, fixing salary with arrears and all other consequential benefits by considering the representation dated 25.10.2022.



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For Petitioner : Mr.K.Ragatheesh Kumar
For Respondents : Mr.N.Ramesh Arumugam,
Government Advocate (CIVIL)

ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

2. The present writ petition has been filed seeking direction to treat the period from 24.08.2016 to 30.08.2017 also as duty period for the purpose of counting service, fixing salary with arrears and all other consequential benefits by considering his representation dated 25.10.2022.

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

(i) The petitioner was appointed as PG Assistant (Tamil) in Government Higher Secondary School, Munchirai, Kanyakumari w.e.f. 30.08.2017. Thereafter, he was transferred to Government Higher Secondary School,



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Nattalam, Killiyoor, Kanyakumari District on 01.06.2023. During the year 2012, the Teachers Recruitment Board (TRB) conducted selection process for filling up posts of PG Assistant in various Government Schools in various Districts. The petitioner applied to the post of PG Assistant (Tamil) and attended the examination conducted by TRB. He duly secured 106 marks out of 150 marks in the written examination. Clause 16 of the prospectus, contemplates 4 marks for the candidates who have 10 years and above wait period from the date of registration in the employment exchange. The petitioner was duly entitled to get 4 marks under the weightage marks category in addition to 106 marks scored in the written examination. However, the respondents have mistakenly awarded 2 marks only. As a result of which, the petitioner lost his opportunity of getting selected.

(ii) Hence, he made a representation to the respondents on 15.12.2012 seeking 4 marks for weightage category. In the meanwhile, the selection list was published by TRB on 19.01.2013, wherein the candidates under BC category who had secured marks on par with the petitioner in the written examination was awarded 4 marks and his name was not placed in the selection



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list. Hence, the petitioner filed W.P.No.6412 of 2013 before the Madras High Court and this Court finding that the petitioner is entitled for 4 marks and directed the petitioner to file an undertaking affidavit to the effect that he would not claim any benefits retrospectively or promotion from the selection list dated 19.01.2013 in the event of considering the petitioner for appointment to the post of PG Assistant. On compliance to the same, the petitioner filed an affidavit dated 15.07.2016.

(iii) Following which, this Court accepting the petitioner's affidavit, disposed the writ petition, by an order dated 24.08.2016. However, writ appeal was preferred by the respondents in W.A.No.147 of 2017 before the Hon'ble Division Bench of this Court and this Court was pleased to dismiss the same by an order dated 02.06.2017, observing that the learned Single Judge has granted the relief, via, media, directing the appellants to consider the case of the petitioner only for the current period and further directing to comply with the order of the learned Single Judge within a period of three months from the date of receipt of copy of the said Judgment. Following which, in compliance to the order of the Hon'ble Division Bench, the TRB vide proceedings dated



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11.08.2017 awarded 4 marks and selected the petitioner to the post of PG Assistant (Tamil) under BC(G) turn and recommended to the Director of School Education for issuing appointment order in the current vacancy.

(iv) Pursuant to the same, the Joint Director of School Education, vide proceedings dated 29.08.2017 appointed the petitioner as PG Assistant (Tamil) in Government Higher Secondary School, Munchirai, Kanyakumari District only prospectively. He joined in service on 30.08.2017 and his probation was declared on 30.08.2019. This Court, by order dated 24.08.2016 had directed the respondents to employ the petitioner as PG Assistant for the current period, i.e., as on the date of the orders of the Hon'ble Single Judge. Though such order was made as a via media settlement and the respondents dragged the matter further and appointed the petitioner as PG Assistant only on 30.08.2017, that is, after a lapse of almost one year. Since the writ petition was decided in favour of the petitioner as early as on 24.08.2016, the respondents ought to have appointed him as PG Assistant atleast w.e.f. 24.08.2016 instead of 30.08.2017. Hence, the petitioner made a representation to the respondents through registered post on 25.10.2022 requesting to treat the period between the orders of this Court, i.e.,



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on 24.08.2016 till the date of appointment on 30.08.2017 as duty period and count the said period for service and for other benefits including salary. Since the same was not considered by the respondents, this writ petition came to be filed.

4. Heard, the learned Counsels on either sides. Carefully perused the materials available on record.

5. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.



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6. Without going into the merits of this case, this Court hereby direct the 2nd respondent to consider the petitioner's representation dated 25.10.2012 and pass appropriate orders in accordance with law within a period of ten (10) weeks from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition stands disposed of. No costs.

26.03.2024

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

To

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Rep. by its Secretary,
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2.The Director of School Education,
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3.The Chief Educational Officer,
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L.VICTORIA GOWRI, J.

Sml

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