



W.P.(MD)No.9561 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.9561 of 2023 &
W.M.P.(MD)No.19088 of 2023

A.John Rajan Chelliah

... Petitioner

vs.

- 1.The Principal Secretary to Government of Tamil Nadu,
School Education Department,
Secretariat, Chennai - 600 009.
- 2.The Chief Educational Officer,
Kokkirakulam, Tirunelveli,
Tamil Nadu 627 009.
- 3.The District Educational Officer,
Valliyoor, Tirunelveli District.
- 4.The District Educational Officer,
Sankarankovil, GA GHSS Campus,
Sankarankoil, Tamil Nadu 627 756.
- 5.The Block Educational Officer,
Alankulam,
D.No.182/1, Arunthathiyar Street,
Akankulam - 627 851.
- 6.The Manager,
TDTA Primary and Middle School (CSI Diocese, Tirunelveli)
Perumalpuram, Tirunelveli - 627 007.



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7. The Hon'ble Administrators

CSI Tirunelveli Diocese Tirunelveli
(appointed by the Hon'ble High Court Madras
in W.P.(MD)No.21134 of 2017 batch
by order dated 05.08.2019)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 2 to 4 to release the salary and service benefits of the petitioner for the period from 03.08.2017 to 10.10.2019 as per the proceedings dated 12.11.2019 issued by the Hon'ble Administrators appointed by this Court in W.P.(MD)No. 21134 of 2017 within a time frame fixed by this Court.

For Petitioner	:	Mr.M.S.Suresh Kumar
For Respondents	:	Mr.M.Siddharthan, Additional Government Pleader for R1 to R5 No appearance for R6

ORDER

Heard Mr.M.S.Suresh Kumar, learned counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader for the respondents 1 to 5.

2. The petitioner claims salary and service benefits for the period from 03.08.2017 to 10.10.2019, during which period he was without employment due to some issues.



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3. Mr.M.S.Suresh Kumar, learned counsel for the petitioner would submit that the petitioner was transferred and posted to TDTA Primary School, Kadayanallur as Head Master. However, one Mrs.T.Christy Ponmani has obtained an order of *status quo* and continued to be in service at TDTA Primary School, Kadayanallur as Head Master. Therefore, the petitioner was not able to join the said post for the period between 03.08.2017 and 10.10.2019. The petitioner was allowed to retire by voluntary retirement on 20.06.2022. The respondents have not paid the salary to the petitioner for the period between 03.08.2017 and 10.10.2019. Therefore, the petitioner has filed this writ petition claiming salary for that specific period.

4. Mr.M.Siddharthan, learned Additional Government Pleader would submit that one of the conditions for voluntary retirement was that the petitioner's period of service from 03.08.2017 to 10.10.2019 would be without salary. Having agreed to the said condition, now the petitioner cannot claim salary for that period.



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5. As per the transfer order passed by the Management, the petitioner has been transferred to TDTA Primary School, Kadayanallur on 03.08.2017. On 21.07.2017, the Management also effected order for Mrs.T.Christy Ponmani who was then working in TDTA Primary School, Kadayanallur to be transferred to Meenatchipuram Pastorate. However, she continued in the post of Head Master at TDTA Primary School, Kadayanallur by getting order of stay by way of filing W.P.(MD)No. 14740 of 2017.

6. In such a case, the Management ought to have placed the petitioner suitably in some other place or retained him in his original post atleast. The petitioner has got nothing to do with the dispute raised by Mrs.T.Christy Ponmani against the Management and the order of *status quo* obtained by her. In fact, the petitioner is a victim and he cannot be further incriminated by attributing fault on his part in respect of the inability to join in any of the place for the period between 03.08.2017 and 10.10.2019. Only on 10.10.2019, the petitioner got an order to be transferred to TDTA Primary School, Ittamozhi.



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7. The learned Additional Government Pleader repeatedly submitted that the petitioner had given undertaking that he would not claim salary for the period between 03.08.2017 and 10.10.2019 and only on the said condition, he was permitted to retire through Voluntary Retirement Scheme. Even though such a condition has been accepted by the petitioner, it is against public policy. As there is no fault on the part of the petitioner, he ought to be paid with the salary for the period between 03.08.2017 and 10.10.2019, much less the service benefits for the said period. The Management having known that Mrs.T.Christy Ponmani had obtained a stay order by way of filing W.P.(MD)No.14740 of 2017, ought to have done some alternative arrangement for suitably placing the petitioner. Only due to the failure on the part of the respondents, the petitioner could not execute his duties as Head Master of Kadayanallur when he has been posted there. Hence, the respondents are bound to pay salary to the petitioner for the period between 03.08.2017 and 10.10.2019 by regularization.



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8. At this juncture, the learned Additional Government Pleader submitted that the petitioner has not also challenged the order of retirement, which was given with a condition that he should forego the salary for the period between 03.08.2017 and 10.10.2019. Since in the opinion of this Court, the said condition is against public policy, it is *non-est* in law. The failure on the part of the petitioner to challenge the order is of no consequence.

9. Accordingly, the writ petition is allowed. The respondents 2 to 4 are directed to release the salary and service benefits of the petitioner for the period between 03.08.2017 to 10.10.2019, after following due procedures and in accordance with law. No costs. Consequently, the connected Miscellaneous Petition is closed.

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NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order

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R.N.MANJULA, J.

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