



WEB COPY

W.P.(MD) No.16865 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.16865 of 2019

V.Joseph Antony Jeyaseelan

... Petitioner

-VS-

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

2.The Principal Accountant General (A&E)
Office of the Principal Accountant General
361, Annasalai, Chennai

3.The Director of School Education
DPI Compound, Chennai

4.The Chief Educational Office
Tirunelveli, Tirunelveli District

5.The District Educational Officer
Tenkasi Educational District
Tenkasi, Tirunelveli District

... Respondents



WEB COPY

W.P.(MD) No.16865 of 2019

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned order dated 23.11.2018 issued by the fourth respondent *vide* O.Mu.No.9104/E2/2018 and quash the same and consequently direct the respondents to re-fix the pension by commuting the initial service of the petitioner as Sacret Heart High School, Kanthalore, Kerala from 16.06.1981 to 03.06.1987 (5 Years and 11 Months) and disburse the arrears to the petitioner forthwith.

For Petitioner : Mr.S.Chellapandian

For Respondents : Mr.T.Amjad Khan
Government Advocate for R1, R3 to R5
Mr.P.Gunasekaran
Standing Counsel for R2

ORDER

This writ petition has been filed challenging the order dated 23.11.2018, passed by the fourth respondent, rejecting the petitioner's request to re-fix his pension by commuting his initial service rendered at Sacret Heart High School, Kanthalore, Kerala, from 16.06.1981 to 03.06.1987 and disburse the arrears to him.



WEB COPY

W.P.(MD) No.16865 of 2019

2. Under the impugned order, the petitioner's request has been rejected, on the ground that there is no Rule / Government Order enabling the respondents to consider his request for refixation of pension by commuting his initial service rendered at Sacret Heart High School, Kanthalore, Kerala, from 16.06.1981 to 03.06.1987.

3. According to the petitioner, he was working in a Corporate Management having schools both in the State of Tamil Nadu and the State of Kerala. He claims that he was transferred from Kanthalore, Kerala, to the State of Tamil Nadu. In Kerala, he was working from 16.06.1981 to 03.06.1987. However, according to him, the pension payable to him was not assessed by commuting his initial service rendered at Sacret Heart High School, Kanthalore, Kerala from 16.06.1981 to 03.06.1987 (5 Years, 11 Months and 17 Days).

4. A counter affidavit has been filed by the respondents reiterating the contents of the impugned order. According to them:



WEB COPY



W.P.(MD) No.16865 of 2019

- (a) The Government of Tamil Nadu cannot take the pension liability, unless the salary was paid by the Government of Tamil Nadu.
- (b) There is no reciprocal arrangement between the Government of Kerala and the Government of Tamil Nadu with regard to the claim made by the petitioner.
- (c) The claim of the petitioner is baseless and not supported by any rules.
- (d) The Government of Tamil Nadu has passed an order in the case of S.Soundararajan to count the services rendered by him under the reciprocal arrangement. The petitioner cannot cite the said case as a precedent, as it was ordered under a special circumstance.

5. Learned counsel for the petitioner drew the attention of this Court to G.O.Ms.No.1069, Education Science & Technology (UI) Department,



W.P.(MD) No.16865 of 2019

WEB COPY

dated 06.06.1983 and would submit that under a similar circumstance, the period of service in a Corporate Management School in Pondicherry was taken into consideration and the relief similar to that one sought for by the petitioner in this writ petition was granted. He also drew the attention of this Court to another Government Order, namely, G.O.Ms.No.619, Department of Education Science & Technology, dated 29.03.1983, which also dealt with the similar issue and granted the relief.

6. Learned counsel for the petitioner would submit that the petitioner having rendered service in a Corporate Management, which is having Schools in the State of Kerala as well as in the State of Tamil Nadu and having worked at both places, is entitled for the relief as prayed for in this writ petition.

7. However, the above submission of the learned counsel for the petitioner is disputed by the learned counsels appearing for the respective respondents.



W.P.(MD) No.16865 of 2019

WEB COPY

8. As seen from the impugned order, the contention of the petitioner, as raised in this writ petition and the Government Orders relied upon by the learned counsel for the petitioner, as stated supra, have not been considered by the respondents. Necessarily, in view of the same, the impugned order has to be quashed and the matter has to be remanded back to the file of the fourth respondent for fresh consideration on merits and in accordance with law, after giving due consideration to the Government Orders relied upon by the learned counsel for the petitioner, within a time frame to be fixed by this Court.

9. For the foregoing reasons, the impugned order, dated 23.11.2018, passed by the fourth respondent, is hereby quashed. The matter is remanded back to the file of the fourth respondent for fresh consideration on merits and in accordance with law, on the petitioner's request to refix his pension by commuting his initial service rendered at Sacret Heart High School, Kanthalore, Kerala, from 16.06.1981 to 03.06.1987 (5 Years, 11 Months and 17 Days), after giving due consideration to the Government Orders placed before this Court by the learned counsel for the petitioner,



W.P.(MD) No.16865 of 2019

WEB COPY

namely, G.O.Ms.No.1069, Education Science & Technology (UI) Department dated 06.06.1983 and G.O.Ms.No.619, Department of Education Science & Technology, dated 29.03.1983. The fourth respondent shall pass final orders, within a period of twelve weeks from the date of receipt of a copy of this order. It is, however, made clear that the petitioner will have to produce all relevant documents / records to substantiate his contention that he was working in the Sacret Heart high School, Kanthalore, Kerala, from 16.06.1981 to 03.06.1987 (5 Years, 11 Months and 17 Days).

10. With the above directions, this writ petition is disposed of. No costs.

10.09.2024

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

krk

To:

- 1.The Secretary to Government,
Department School Education,
St.George Fort, Chennai.
- 2.The Director of School Education,
DPI Compound, Chennai.

Page 7 of 9



W.P.(MD) No.16865 of 2019

WEB COPY

- 3.The Chief Educational Office,
Tirunelveli, Tirunelveli District.
- 4.The District Educational Officer,
Tenkasi Educational District,
Tenkasi, Tirunelveli District.



WEB COPY



W.P.(MD) No.16865 of 2019

ABDUL QUDDHOSE, J.

krk

W.P.(MD) No.16865 of 2019

10.09.2024