



W.P.(MD)No.6564 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2024

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.6564 of 2017

P.Ganapathy

... Petitioner

Vs.

- 1.The Secretary to Government,
School Education Department,
Government of Tamil Nadu,
Fort St.George,
Chennai.
- 2.The Accountant General,
No.361, Anna Salai,
Chennai-600 015.
- 3.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 4.The District Educational Officer,
Cheranmahadevi Educational District,
Tirunelveli Town,
Tirunelveli District.
- 5.The Secretary,
P.L.W.A Higher Secondary School,
V.K.Puram,
Tirunelveli District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to regularize the period of suspension, the period of medical leave and other leaves and to revise the petitioner's pay in pursuant to G.O.(Ms).No.234, Finance Department dated 01.06.2009 (7th Pay Commission) enabling the petitioner to get the pensionary benefits with effect from 21.05.2009 when the petitioner was allowed to go on voluntary retirement from his service as Secondary Grade Teacher in PLWA Higher Secondary School, V.K.Puram, Tirunelveli District within a time that may be fixed by this Court.

For Petitioner : Mr.V.Kannan

For R-1, R-3
& R-4 : Mr.T.Amjadkhan,
Government Advocate

For R-2 : Mr.P.Gunasekaran

For R-5 : No Appearance

ORDER

Heard Mr.V.Kannan, learned counsel appearing for the petitioner, Mr.T.Amjadkhan, learned Government Advocate appearing for respondent Nos. 1, 3 and 4 and Mr.P.Gunasekaran, learned Standing Counsel appearing for the second respondent.



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WEB COP 2. This Writ Petition has been filed for a Mandamus seeking for a direction to the respondents to regularize the period of suspension, the period of medical leave and other leaves and to revise the pay of the petitioner pursuant to the Government Order in G.O.(Ms).No.234, Finance Department, dated 01.06.2009 (7th Pay Commission) to enable the petitioner to get the pensionary benefits with effect from 21.05.2009, when he was allowed to go on voluntary retirement.

3. The petitioner claims that he was working as a Secondary Grade Teacher in the fifth respondent School and he was suspended from service in the disciplinary proceedings initiated against him by the fifth respondent School. He claims that his voluntary retirement request has been accepted by the fifth respondent, after issuing a Certificate for the charges framed against him in the disciplinary proceedings have been dropped. He has sought for regularization of the period of suspension to treat the said period as 'period of duty'. He has given a representation on 21.02.2017 to the fifth respondent School for the said purpose.



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4. According to the petitioner, only after the period of his suspension is regularized, his voluntary retirement request accepted by the fifth respondent School can be considered for approval by the fourth respondent.

5. The fifth respondent has been duly served with a notice in this Writ Petition. The remaining respondents are represented by the learned Standing Counsel and the learned Government Advocate.

6. At the outset, it is clear that only after the period of suspension of the petitioner in the disciplinary proceedings on account of the charges framed against him by the fifth respondent School is treated as a 'period of duty', the question of submitting the proposal by the fifth respondent School to the fourth respondent for the approval of the petitioner's request for acceptance of voluntary retirement can be considered.

7. At this juncture, the only limited relief that could be granted to the petitioner is to direct the fifth respondent School to consider the petitioner's representation dated 21.02.2017 seeking to regularize the period of suspension as 'period of duty', on merits and in accordance with law, within a time frame to be fixed by this Court. Only thereafter, the question of approval of the



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petitioner's request for acceptance of voluntary retirement can be considered by the fourth respondent, based on the proposal submitted by the fifth respondent School.

8. No prejudice will be caused to the respondents, if the representation of the petitioner with regard to his request for regularization of the period of suspension is considered on merits and in accordance with law, within a time frame to be fixed by this Court.

9. For the foregoing reasons, this Court directs the fifth respondent to pass final orders, on merits and in accordance with law, on the petitioner's representation dated 21.02.2017 seeking for regularization of the period of suspension as 'period of duty' within a period of eight weeks from the date of receipt of a copy of this order. In the event of the fifth respondent coming to the conclusion that the period of suspension of the petitioner can be regularized, fifth respondent is directed to submit a proposal to the fourth respondent for acceptance of the pension proposal and on receipt of the said proposal, the fourth respondent shall pass final orders on merits and in accordance with law.



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WEB COPY **10.** With the aforesaid direction, the Writ Petition stands disposed of. No costs.

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NCC:yes/no
Index:yes/no
Internet:yes/no
TSG



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ABDUL QUDDHOSE, J.

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