



W.P.(MD).No.23856 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 04.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.23856 of 2022

and

W.M.P(MD) No.24281 of 2023

T.Selvam

... Petitioner

Vs.

1. The Director,
Adi Dravidar and Tribal Welfare Directorate,
Ezhilagam, Chepauk,
Chennai – 600 005.

2. The District Adi Dravidar and Tribal Welfare Officer,
District Adi Dravidar and Tribal Welfare Office,
Madurai – 625 020. ... 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 regularize the service of the petitioner from 09.08.2018 to 17.02.2021 during which he was prevented from serving by the second respondent by an order dated 09.08.2018 in Na.Ka.No.22242/2018/AD3 relieving the petitioner without notice and enquiry and later reinstated on 17.02.2021 by the second respondent with all service and monetary benefits.



W.P.(MD).No.23856 of 2022

For Petitioner : Mr.V.R.Shanmuganathan
For Respondents : Mr.S..Shanmugavel
Additional Government Pleader

ORDER

The instant writ petition has been filed by a Warden of the Adi Dravidar and Tribal Welfare School Student Hostel seeking a Mandamus directing the respondents to regularise the services of the petitioner from 09.08.2018 to 17.02.2021, when he was prevented to attend duty.

2. When the petitioner was working as a Hostel Warden at Palamedu, Adi Dravida Welfare School Student Hostel, the District Adi Dravidar and Tribal Welfare Officer, Madurai, by his proceedings, dated 09.08.2018 had relieved the petitioner. In the relieving order, it is stated that the District Adi Dravidar and Tribal Welfare Officer has sent a proposal to the Director of Adi Dravidar and Tribal Welfare Department for transferring him as a Secondary Grade Teacher.

3. A careful perusal of the relieving order reveals that even before decision was taken on the proposal submitted by the second respondent, the



W.P.(MD).No.23856 of 2022

second respondent has relieved the petitioner.

WEB COPY

4. The petitioner was relieved from Palamedu, Adi Dravida Welfare School Student Hostel and he was not given any posting order either by the second respondent or by the first respondent. Therefore, the petitioner has addressed a representation on 29.07.2020. Thereafter, the first respondent has passed an order dated 17.02.2021 posting the writ petitioner as a Secondary Grade Teacher in Government Adi Dravidar and Tribal Welfare Primary School, Achampatti. It is submitted that the petitioner has joined the Achampatti School on 17.02.2021 itself.

5. The period between 09.08.2018 and 16.02.2021 has not been regularised by the authorities concerned. Hence, the petitioner has addressed a representation to the first respondent on 20.09.2022 to regularise the said period as compulsory wait and confer benefits for the said period. Since the said representation has not been considered, the present writ petition has been filed.

6. The learned Additional Government Pleader appearing for the respondents by filing a counter contended that the petitioner has absented



W.P.(MD).No.23856 of 2022

WEB COPY

himself from duty and after a period of one year, he has submitted a representation to the first respondent seeking posting orders. Therefore, the entire delay is only on the part of the petitioner and therefore, the said period cannot be regularised.

7. The dates and events as captured above will clearly indicate that the second respondent herein without waiting for the transfer order to be issued by the first respondent, based upon his proposal, has proceeded to relieve the writ petitioner on 09.08.2018. Posting order issued by the first respondent on 17.02.2021 also did not reveal any proposal said to have been sent to the second respondent herein. In such circumstances, it is clear that the petitioner has been illegally relieved by the second respondent.

8. In view of the above said circumstances and considering F.R 9 (B) of the Fundamental Rules, the duty period, during which, no posting order has been issued by the first respondent, has to be treated as a compulsory wait and all the benefits which accrued to the petitioner from the above said period, have to be conferred upon him.



W.P.(MD).No.23856 of 2022

WEB COPY

9. In view of the above said deliberations, this Writ Petition stands allowed. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

04.09.2024

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

To

1. The Director,
Adi Dravidar and Tribal Welfare Directorate,
Ezhilagam, Chepauk,
Chennai – 600 005.
2. The District Adi Dravidar and Tribal Welfare Officer,
District Adi Dravidar and Tribal Welfare Office,
Madurai – 625 020.



WEB COPY



W.P.(MD).No.23856 of 2022

R.VIJAYAKUMAR,J.

ebsi

W.P(MD)No.23856 of 2022

04.09.2024