

(2016) 03 MAD CK 0086

In the Madras High Court

Case No : Writ Appeal (MD) No. 182 of 2016 and C.M.P. (MD) Nos. 927 and 1900 of 2016

The Correspondent, Schafer Higher Secondary School

APPELLANT

Vs

V. Franklin Jebasingh and Others

RESPONDENT

Date of Decision : 03-03-2016

Acts Referred:

Citation : (2016) 03 MAD CK 0086

Hon'ble Judges : S. Manikumar and C.T. Selvam, JJ.

Bench : Division Bench

Advocate : S. Meenakshi Sundaram, for the Appellant; Lita Srinivasan, for the Respondent

Final Decision : Dismissed

Judgement

S. Manikumar, J.—1. Challenge in this appeal, is to an order, made in W.P(MD) No. 12231 of 2014, dated 28.09.2015. The said Writ Petition has been filed, by the 1st respondent herein/writ petitioner therein, for a Mandamus, directing the respondents, to pay him the arrears of salary, in the post of Office Assistant, in Schafer Higher Secondary School, Tirunelveli/4th respondent therein, with effect from 03.06.2009, by passing appropriate orders, on the representation, submitted by the writ petitioner, dated 07.06.2014, with consequential attendant benefits, with interest, within a time frame, to be fixed by this Court.

2. Facts deduced from the material on record are that the appellant/Schafer Higher Secondary School, Tirunelveli, is a minority school. Vide proceedings, dated 07.02.2006, the 1st respondent herein, was appointed as Office Assistant, in the appellant school, in a regular sanctioned post. Consequent to the said appointment, the appellant has sent a proposal, to the 4th respondent/District Educational Officer, Tirunelveli District. The said proposal has been returned.

3. The appellant/Schafer Higher Secondary School, Tirunelveli, employer of the 1st respondent, had not taken up the issue of getting approval of the

appointment of the 1st respondent, which constrained the 1st respondent, to challenge the proceeding of the 4th respondent/District Educational Officer, Tirunelveli District, in A.Thi.Mu.2279Aa2/06, dated 22.05.2006, regarding the return of proposal, for approval, by filing W.P(MD) No. 8150 of 2008, for a Writ of Certiorarified Mandamus, to quash the proceeding of the 4th respondent herein/ District Educational Officer, Tirunelveli District, and for a consequential direction to the respondents therein, to approve the appointment of the writ petitioner/1st respondent herein, as Office Assistant.

4. Two other writ petitions, W.P(MD) Nos. 8151 and 8152 of 2008, have been filed challenging the orders of the District Educational Officer, Tirunelveli District, wherein, the request for approval of two other persons, appointed by the appellant, have been returned. All the three writ petitions have been taken up together. After considering a decision of the Hon"ble Division Bench of this Court in D. Samuel Raj Thomas v. The Secretary to the Government (W.A.(MD) No. 558 of 2008 dated 16.09.2008), a learned single Judge, allowed all the three writ petitions.

5. Being aggrieved by the same, Secretary to the Government, Education Department, Chennai and two others, have preferred W.A(MD) Nos. 154 to 156 of 2011. The appellant/Schafter Higher Secondary School, Tirunelveli, is a party, in all the writ appeals. After hearing the State counsel, and the learned counsels for the respondents therein, namely, the employees and the school, vide common order, in W.A(MD) Nos. 154 to 156 of 2011, dated 03.02.2011, a Hon"ble Division Bench, at paragraphs 6 to 9, held as follows:--

"6. A similar issue as to whether after lifting of the ban, approval of a person's appointment in a non-teaching post in aided school, can be kept pending and whether the said persons are entitled to get salary at least from the date on which the ban order was lifted was considered by one of us [NPVJ] in W.P.(MD). No. 484 of 2007, dated 30.10.2007. In the said order, in Paragraph Nos. 19 and 20, it is held as follows:--

"19. Similar ban order issued by the Department on the ground that new norms are contemplated and pending the same no appointment in aided schools are to be made was set aside by this Court in W.P. No. 10237 of 1994 by order dated 16.08.1999. Since the petitioner was appointed from 05.06.2002 and he is continuously working in the sanctioned post, the respondents may be justified in not approving the appointment of the petitioner from 05.06.2002 to 06.02.2006. The petitioner has got a right to get his appointment approved, once the ban order is lifted. Admittedly, the ban order imposed, not to fill up the posts, was lifted on 07.02.2006. Hence, the petitioner has got every right to get his post approved with salary and other benefits with effect from 07.02.2006. Once the ban order is lifted, the provisions contained in Rule 15(1) and (3) of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973, comes into operation and the petitioner is deemed to be appointed on regular basis, as he was appointed within the sanctioned post in the fourth respondent school.

20. For all the reasons stated above, the impugned orders are set aside with a direction to the respondents to approve the appointment of the petitioner as Lab Assistant with effect from 07.02.2006. The third respondent is directed to pass orders approving the appointment of the petitioner with effect from 07.02.2006 and pay arrears of salary from 07.02.2006 within a period of four weeks from the date of receipt of a copy of this order."

7. The learned counsel appearing for the first respondents submits that the said order dated 30.10.2007 made in W.P.(MD). No. 484 of 2007, was challenged by the respondents - Education Department in Writ Appeal (MD). No. 308 of 2008 and the said Writ Appeal was also dismissed by a Division Bench of this Court on 04.08.2008. In the said Judgment, the Division Bench, in Paragraph Nos. 4 and 5, has held as follows:--

"4. After considering the rival submissions made on either side, following the Judgment of the Supreme Court and the order of this Court, the Learned Single Judge set aside the orders of the appellants with a direction to approve the appointment of the respondent/petitioner as Lab Assistant with effect from 07.02.2006 and the third respondent was directed to pass orders approving the appointment of the first respondent with effect from 07.02.2006 within a period of four weeks from the date of receipt of copy of the order.

5. We find no infirmity or illegality in the order of the learned Judge dated 30.10.2007 passed in W.P. (MD). No. 484 of 2007. Therefore, the Writ Appeal fails and the same is dismissed."

8. Subsequently, in W.A. No. 558 of 2008, dated 16.09.2008, the Principal Seat of this Court ordered to pay salary to similarly placed persons from the date of appointment.

9. In view of the above said order, which was confirmed by the Division Bench and by the Supreme Court in S.L.P. Nos. 4086 and 4087 of 2010, the Common Order dated 24.11.2008 made in W.P. (MD). Nos. 8150, 8151 and 8152 of 2008 passed by the learned Single Judge is confirmed and the Writ Appeals are dismissed. The appellants are directed to comply with the order of the learned Single Judge within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are also dismissed."

6. Thus, from the above, it could be deduced, that though, it is the duty of the Management, to have taken up the issue of getting approval of their appointments, they have not chosen to do so, but, when W.P(MD) No. 8150 of 2008, was filed by the 1st respondent herein, seeking to quash the return of the proposal for approval, by the District Educational Officer, Tirunelveli, and for a consequential direction against the educational authorities, to approve his appointment as Office Assistant, there was no objection by the Management of the school and till the disposal of W.A(MD) Nos. 154 to 156 of 2011, in the year 2011, the appellant had not made any allegations, against the 1st respondent.

Thus, at the first instance, the 1st respondent herein/Office Assistant, had to fight with the Education Department.

7. During the pendency of W.P(MD) No. 8150 of 2008, filed for approval, contending inter alia that the appellant school, did not permit the 1st respondent, to sign in the regular attendance register, from 03.06.2009 and permitted him, to sign only in a separate attendance register, and thus the 1st respondent had to discharge his duties, and though, by representation, dated 16.11.2009, he had sought for permission of the 1st respondent, to sign in the regular attendance register, the appellant school failed to do so, the 1st respondent/Office Assistant, has taken up the second journey of his litigation, to this Court, against the appellant/Schafter Higher Secondary School, Tirunelveli, by filing W.P(MD) No. 7180 of 2011, for a Writ of Mandamus, directing the appellant/Correspondent, Schafter Higher Secondary School, Tirunelveli, to permit him to discharge his duties, as Office Assistant, in the abovesaid school, after signing the regular attendance register. He has also contended that it was unreasonable on the part of the appellant, in not complying with the order of this Court in W.A(MD) Nos. 154 to 156 of 2011, dated 03.02.2011.

8. Before the Writ Court, in W.P(MD) No. 7180 of 2011, the learned counsel appearing for the Correspondent, Schafter Higher Secondary School, Tirunelveli, had submitted that as there was a change of Correspondent, the order made in W.A(MD) Nos. 154 to 156 of 2011, dated 03.02.2011, could not be complied with.

9. Declining to accept the aforesaid reason, and by observing that non compliance of the directions of this Court in W.A(MD) Nos. 154 to 156 of 2011, dated 03.02.2011, was not only unreasonable, and to be construed as contempt, the Writ Court, by order, dated 20.12.2012, allowed W.P(MD) No. 7180 of 2011, and consequently, directed the Correspondent, Schafter Higher Secondary School, Tirunelveli, appellant herein, to permit the 1st respondent herein, to discharge his duties, as Office Assistant, and sign in the attendance register, in view of the orders passed in W.P(MD) No. 8150 of 2008, dated 24.11.2008 and confirmed in W.A(MD) Nos. 154 to 156 of 2011, dated 03.02.2011.

10. While doing so, the Writ Court, has also observed that a poor employee had been driven from pillar to post. Deprecating the conduct of the Correspondent, Schafter Higher Secondary School, Tirunelveli, appellant herein, the Writ Court, has also directed the school, to pay a cost of Rs. 5,000/-, to the 1st respondent herein.

11. Material on record further discloses that Correspondent, Schafter Higher Secondary School, Tirunelveli, has filed a Review Application No. 14 of 2013, against the order made in W.P(MD) No. 7180 of 2011, dated 20.12.2012, on the grounds inter alia that the Writ Court, failed to consider that the 1st respondent herein, did not attend the school, after the pronouncement of the order made by this Court. In the review application, it has also been contended that the Writ Court, ought to have taken into consideration that the representation, dated

20.03.2011, was not given to the Management.

12. Though, vide common order, dated 03.02.2011, W.A(MD) Nos. 154 to 156 of 2011, were dismissed, by the Hon"ble Division Bench, directing the Education Department, to grant approval, the same had not been done and therefore, the first respondent herein, has filed Cont.P(MD) No. 834 of 2012. Subsequently, based on the common order, made in W.A(MD) Nos. 154 to 156 of 2011, dated 03.02.2011, the Government, have issued G.O.(4D) No. 20, School Education (SC6(2)) Department, dated 08.11.2013, approving the appointments of all the three employees/writ petitioners in W.P. Nos. 8150 to 8152 of 2008, from the date of their appointments. Thus, the appointment of the 1st respondent herein, as Office Assistant, in Schafer Higher Secondary School, Tirunelveli, has been approved from 07.02.2006, the date of his initial appointment.

13. Thereafter, though the Government, have issued G.O.(4D) No. 20, School Education (SC6(2)) Department, dated 08.11.2013, approving the appointment of the 1st respondent, as Office Assistant, he was not paid pay, from 03.06.2009. The school had not sent any proposal to the Education Department, for payment of salary and other benefits from 03.06.2009 onwards, on the grounds inter alia, that the review application was pending. Therefore, the 1st respondent herein, had to file W.P(MD) No. 12231 of 2014, for a Mandamus, directing the respondents therein, to pay him, the arrears of salary, in the post of Office Assistant, in Schafer Higher Secondary School, Tirunelveli/4th respondent therein, with effect from 03.06.2009, by passing appropriate orders, on the representation, submitted by the writ petitioner/1st respondent, dated 07.06.2014, with consequential attendant benefits, arrears of salary with interest, within a time frame fixed by this Court.

14. Before the Writ Court, in W.P(MD) No. 12231 of 2014, the Correspondent, Schafer Higher Secondary School, Tirunelveli, the appellant herein, has reiterated the pendency of Review Application No. 14 of 2013, and further submitted that the 1st respondent was unauthorisedly absent, for 43 months and 18 days, and as his services were not regularised, he is not entitled to get any salary. Both Review Application No. 14 of 2013 and W.P(MD) No. 12231 of 2014, have been taken up for hearing. After extracting the sequence of events and the orders passed in the earlier round of litigations, vide common order in W.P(MD) No. 12231 of 2014 and Review Application No. 14 of 2013 dated 28.09.2015, the Writ Court at paragraphs 7 to 9, has passed the following order:--

"7. In spite of the orders passed, it is not known as to why the 4th respondent has not come forward to comply with the earlier order passed by this Court.

8. In view of the foregoing observations and discussions, the writ petition stands allowed and the fourth respondent is directed to pay the arrears of salary to the petitioner with effect from 03.06.2009 within a period of eight weeks from the date of receipt of a copy of this order.

9. It is seen that the fourth respondent Management has filed a frivolous petition

to review the order of this Court made in W.P. (MD) No. 7180 of 2012. Since the present writ petition is allowed as prayed for, there is no error apparent on the face of the record. Accordingly, the Review application is dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.'''

15. Not satisfied with the order, made in W.P(MD) No. 12231 of 2014, the appellant has filed the present appeal.

16. Record of proceedings, shows that while ordering notice of motion, returnable in three weeks, a Hon''ble Division Bench of this Court, vide order dated 28.01.2016 in W.A(MD) No. 182 of 2016 and C.M.P(MD) No. 927 of 2016, has granted interim stay. The 1st respondent has filed vacate stay petition C.M.P(MD) No. 1900 of 2016 in W.A(MD) No. 182 of 2016.

17. Though the appellant, has raised grounds, challenging the order made in W.P(MD) No. 12231 of 2014, the only argument made by Mr. S. Meenakshi Sundaram, learned counsel for the appellant, in the present appeal filed by the school, is that the Education Department, has to pay the arrears of salary, from 03.06.2009 onwards, and the Management would send suitable proposals to that effect. No arguments have been made regarding the alleged unauthorised absence of the 1st respondent, during the abovesaid period. Submission is placed on record.

18. Per contra, Mr. V.R. Shanmugathan, learned Special Government Pleader appearing for the Education Department, submitted that for the fault of the Management, Education Department should not be made to suffer, mulcting payment. According to him, it was purely, an internal dispute between the Management and the 1st respondent. He also submitted that as the 1st respondent, had not worked, during the period between 03.06.2009 and 22.01.2013, salary has to be paid only by the school Management. He also submitted that the Education Department, is liable to pay salary, only from the date on which the 1st respondent discharged his duties as Office Assistant i.e., from 22.01.2013.

19. Opposing the attitude of the school Management and the Education Department in blaming each other, for non payment of salary from 03.06.2009, the day on which, the 1st respondent was prevented from discharging his duties, as Office Assistant, in the appellant school, by signing the regular attendance register, Tmt. Lita Srinivasan, learned counsel for the 1st respondent, submitted that till W.A(MD) Nos. 154 to 156 of 2011, were disposed of, by a Hon''ble Division Bench, on 03.02.2011, there was no whisper from the appellant school Management, alleging that the 1st respondent had unauthorisedly absented. From the date of filing of W.P(MD) No. 8150 of 2008, till W.A(MD) Nos. 154 to 156 of 2011, came to be disposed of on 03.02.2011, the Management, had not filed any counter affidavit, nor argued that the 1st respondent, did not attend the school. According to her, though the Education Department, was aware of the internal dispute, they have not taken any action, against the school, although

they were parties, in all the proceedings, namely, W.P(MD) No. 8150 of 2008 dated 24.11.2008, W.P(MD) No. 7180 of 2011 dated 20.12.2012, and W.A(MD) Nos. 154 to 156 of 2011, dated 03.02.2011 respectively.

20. Inviting the attention of this Court, to the averments made in paragraphs 5 and 7, in C.M.P(MD) No. 927 of 2016 in W.A(MD) No. 182 of 2016, learned counsel for the 1st respondent, further submitted that when the order, dated 28.09.2015, made in Review Application No. 14 of 2013 in W.P(MD) No. 7180 of 2011, had reached finality, without there being any appeal, against the same, it is not open to the School, to once again, urge the ground of alleged unauthorised absence in W.P. No. 12231 of 2014, for denial of arrears of salary, from 03.06.2009 onwards. She also submitted that though arrears of salary, was directed to be given, the Correspondent, Schafer Higher Secondary School, Tirunelveli, appellant herein, had paid only the cost of Rs. 5,000/-. Contending inter alia that a poor Office Assistant had to litigate from 2008 to till date, for eight years, due to the mala fide attitude of the Correspondent, Schafer Higher Secondary School, Tirunelveli, the appellant herein, and the inaction on the part of the Education Department, in not extending help to a poor Office Assistant, to redress his grievances, despite knowledge of all the proceedings, she submitted that both appellant and the education department should be awarded exemplary cost, taking note of the mental agony, suffering, undergone by the 1st respondent.

21. As observed earlier, at the first instance, when the proposal for approval of the appointment of the 1st respondent, was returned by the 4th respondent herein/District Educational Officer, Tirunelveli District, vide proceeding in A.Thi.Mu.2279Aa2/06, dated 22.05.2006, the appellant school, who had appointed the 1st respondent, ought to have taken up the responsibility of re-submitting the proposal and pursued the Education Department, for approval of his appointment. Duty of the Management does not rest with mere appointment. They have to send the proposals of the Educational authorities for approval of appointment. If some for some reason, the proposals for appointment is returned, it is for them to re-submit the proposals back to the Education Department. As per the extant rules, an employee cannot send any proposal to approve his own appointment. Thus, there is a failure, on the part of the appellant, in taking up the cause of a poor Office Assistant/1st respondent and others. This has lead to the filing of W.P(MD) No. 8150 of 2008, and two other writ petitions, namely, W.P(MD) Nos. 8151 and 8152 of 2008, seeking for a Writ of Certiorarified Mandamus, to quash the return of the proposals and for a consequential direction to the Education Department, to approve the same.

22. As rightly pointed out, till W.A(MD) Nos. 154 to 156 of 2011, filed by the Education Department, were dismissed, the appellant-Management, has not alleged that the 1st respondent herein, was unauthorisedly absent. Throughout the proceedings till W.A(MD) Nos. 154 to 156 of 2011, came to be disposed of, in 2011, there was no allegation against the 1st respondent. Thus, the first round

of litigation, as regards approval was over in 2011.

23. The second round of litigation has commenced, in the same year, when the appellant school, had not allowed the 1st respondent, from discharging his duties, as Office Assistant, in the school, by signing the regular attendance register, which constrained him, to file W.P(MD) No. 7180 of 2011, for a Mandamus, as stated supra. The main reason assigned by the appellant, for not complying with the order, made in W.A(MD) Nos. 154 to 156 of 2011, dated 03.02.2011, was that there was a change of Management. That mere statement of the learned counsel for the appellant, before the Writ Court in W.P(MD) No. 7180 of 2011, itself, is indicative of the fact that it was not the fault of the 1st respondent, in not signing the regular attendance register.

24. By observing that the non compliance of the order, made in W.A(MD) Nos. 154 to 156 of 2011, dated 03.02.2011, has to be construed as contempt and must be dealt with properly, the Writ Court allowed W.P(MD) No. 7180 of 2011, directing the 1st respondent, to discharge his duties, as Office Assistant and to sign in the attendance register. Appellant has been directed to pay cost of Rs. 5,000/- to the 1st respondent. Even after the order made in W.P(MD) No. 7180 of 2011, dated 20.12.2012, the 1st respondent herein, could not discharge his duties, on account of filing of the Review Application No. 14 of 2013 in W.P(MD) No. 7180 of 2011, in January 2013.

25. From the submissions, made across the Bar, by the learned Special Government Pleader, it could be deduced that the 1st respondent was allowed to perform his duty from 22.01.2013.

26. One of the arguments, advanced by the learned Special Government Pleader, that there was internal dispute, between the Management and the 1st respondent, for which, the Education Department, is not responsible and consequently, not liable to pay the arrears of salary to the 1st respondent from 03.06.2009 to 22.01.2013.

27. As rightly pointed out, by Tmt. Lita Srinivasan, learned counsel for the 1st respondent, being a party in all the writ petitions from 2008, the Education Department cannot contend, that they would remain, as a silent spectator, to the internal dispute. Initially, they returned the proposal, for approval, which constrained the 1st respondent, to prefer a writ petition, and though W.A(MD) Nos. 154 to 156 of 2011, filed by them, were dismissed in 2011, only after filing of Cont.P(MD) No. 834 of 2012, Education Department, has issued G.O.(4D) No. 20, School Education (SC6(2)) Department, dated 08.11.2013, after nearly two years.

28. If the 1st respondent, had unauthorisedly absented from 03.06.2009, then the Management would have certainly, resorted to suspension and taken disciplinary proceedings. The Management had not resorted to any disciplinary action. The Government have issued the approval order in G.O.(4D) No. 20, School Education (SC6(2)) Department, only on 08.11.2013. Therefore, it is

presumable that the Management would not have allowed the 1st respondent, to sign, in the original attendance register and instead, permitted him to sign a separate attendance register. This could have been done, to give an impression that the 1st respondent was unauthorisedly absent. When the dispute between the Management and the 1st respondent, regarding signing of the attendance register and discharge of duties, as Office Assistant, had been raised, considering the object of the Tamil Nadu Recognised Private Schools (Regulation) Act and the Rules made thereunder, the Education Department ought to have stepped in, to ascertain, as to whether the case of the 1st respondent, was true or not.

29. Having regard to the avowed object of the Act, to protect the interests of teaching and non teaching staff and students, this Court is of the view that there is a failure, on the part of the Education Department, to protect the interest of a poor Office Assistant, who had to litigate. Even after the Writ Court passed a direction in W.P(MD) No. 7180 of 2011 dated 20.12.2012, directing the Management of the appellant school, to permit the 1st respondent, to discharge his duties, as Office Assistant and to sign in the attendance register, the Education Department, being a party, in the abovesaid order, had not taken any action, by issuing directions, to the Management of the appellant school, to allow the 1st respondent, to discharge his duties. Thus, the 1st respondent could not discharge his regular duty, till 22.01.2013. At this juncture, it should be noted that the writ Court has awarded Rs. 5000/- costs to the appellant school. While that being the order of the Court, the Education Department cannot contend that they would remain as a mute spectator, to whatever the Management did to prevent the 1st respondent from discharging his duties and contend that it was only an internal dispute. Atleast, at this juncture, the Education Department should have stepped in to redress the grievance of the 1st respondent.

30. As rightly contended by the learned counsel for the 1st respondent, when the order, made in W.P(MD) No. 7180 of 2011 dated 20.12.2012, is merged with the order, made in the Review Application No. 14 of 2013, filed against the order made in W.P(MD) No. 7180 of 2011 dated 20.12.2012, in the absence of any appeal, against the order made in the Review Application No. 14 of 2013, it is not open to the appellant, to raise the same grounds of unauthorised absence, in the present writ appeal. We have already observed that the learned counsel for the appellant has made oral submissions to the effect that the education department has to pay the arrears. On the aspect of doctrine of merger, useful reference can be made to few decisions:--

"?..

31. On the contention, that the 1st respondent had not worked, during the period between 03.06.2009 and 21.01.2013 and that the principle of "no work, no pay" has to be applied, this Court is of the view that there is no hard and fast rule that there should be denial of arrears of salary, when the 1st respondent, has been denied work or in other words, sign the regular attendance register. In this context, it is useful to refer to few decisions:--

"(i) The Supreme Court in *Union of India v. K.V. Janakiraman*, reported in , 1991 SC 2010, at Paragraph 7 of the judgment, held as follows:

"The normal rule of "no work no pay" is not applicable to cases such as the present one where the employee although he is willing to work is kept away from work by the authorities for no fault of his. This is not a case where the employee remains away from work for his own reasons, although the work is offered to him. It is for this reason that F.R.17(1) will also be inapplicable to such cases."

(ii) In *Burn Standard Co. Ltd., and another v. Tarun Kumar Chakraborty and others* reported in 2003 SCC (L & S) 1015, the first respondent therein was kept out of service and not permitted to work. The appellants contended that due to pendency of a case filed by the association, they bona fide believed that they could not permit him to join duty. The Hon"ble Supreme Court accepting the contention of the respondent therein, employee held that if there was no impediment in law in permitting the employee in joining the duty, then there is no justification in denying the salary to him. Accordingly, the Court, directed the appellant to pay the salary and other emoluments for the period not covered by the litigation and interim orders.

(iii) In *State of Kerala v. E.K. Bhaskaran Pillai* reported in , 2007(6) SCC 524, the Hon"ble Supreme Court, at Paragraph 4, held as follows:

"..... Particularly when the administration has wrongly denied his due then in that case he should be given full benefits including monetary benefit subject to there being any change in law or some other supervening factors. However, it is very difficult to set down any hard-and-fast rule. The principle "no work no pay" cannot be accepted as a rule of thumb. There are exceptions where courts have granted monetary benefits also."

32. In the light of the discussion and the decisions cited supra, this Court is of the view that the 1st respondent is entitled to arrears of salary. The next question to be considered is, as to who should pay the salary. Admittedly, the school is an aided school. The 1st respondent/Office Assistant, is entitled to salary, as per the grant in aid. As per the procedure, in so far as monthly payment of salary and allowances of the staff, is concerned, the Correspondent/Corporate Manager of Minority School or the Secretary of the School Committee, in respect of a non minority school, as the case may be, should send the proposal to the Education Department. In the case on hand, the appellant Management had not allowed the 1st respondent, to discharge his duties, and not sent the proposals. The appellant has paid the costs also.

33. Now, in this appeal, the only argument advanced by Mr. S. Meenakshi Sundaram, learned counsel for the appellant, is that the Education Department has to pay. He has also admitted that proposals would be sent by the appellant. Appointment is against a sanctioned post. Education Department is bound to pay salary. As observed earlier, principle of "no work, no pay", is not applicable to the case on hand. Therefore, we direct the appellant, to send necessary proposals,

for the arrears of salary of the 1st respondent from 03.06.2009 to 21.01.2013. On receipt of the proposals, the official respondents are directed to approve the proposals, and pay the arrears of salary to the 1st respondent, for the abovesaid period, within a period of four weeks from the date of receipt of the proposals.

34. Appellant has been litigating, with a poor Office Assistant, for nearly eight years from 2008, unmindful of the mental agony. The appellant could have been magnanimous. Fighting with a poor Office Assistant, alleging unauthorised absence and subsequently, contending before this Court, by stating that because of change of Management, he could not be engaged, is not appreciated.

35. Considering the conduct of the appellant, this Court is of the view that the appellant should be mulcted with the liability to pay interest, if not costs, on the arrears of salary from 03.06.2009 to 21.01.2013, which would meet the litigation and other expenses of the 1st respondent. We therefore, direct the appellant to compute the arrears of salary, to be paid to the 1st respondent, for the period between 03.06.2009 and 21.01.2013 and on the abovesaid amount, the appellant is directed to pay interest, at the rate of 7.5% per annum, to the 1st respondent, within a period of four weeks from the date of receipt of a copy of this order.

36. In the result, the Writ Appeal is dismissed. No costs. The interim order granted on 28.01.2016 is vacated. Consequently, C.M.P(MD) Nos. 927 and 1900 of 2016 are closed.