

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2016

CORAM:

THE HON 'BLE MR. JUSTICE B.RAJENDRAN

Writ Petition No.33061 of 2014
and M.P.No.1 of 2014
and
MP No.1 of 2015

M.Shivkumar

... Petitioner

Versus

1. The Director of School Education,
College Road, Nungambakkam,
Chennai - 600 008
 2. The District Education Officer (East Zone),
No.81, Choolaimedu High Road,
Choolaimedu, Chennai - 600 094
 3. Shree Gowtham Chand Kothari Jain
Higher Secondary School,
Rep. By its Correspondent,
No.180 Manner Swamy Koil Street,
Royapuram, Chennai - 600 013
- ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records and to quash the termination order, dated 01.12.2014, passed by the third respondent.

For Petitioner : Mr. M.K.T.Gopu

For Respondents: Mr.A.Kumar, Spl. G.P., for R-1 & R-2,
Mr. Sai Bharath, for R-3

O R D E R

This writ petition has been filed by the petitioner praying for the issuance of a Writ of Certiorari to call for the records and to quash the termination order, dated 01.12.2014, passed by the third respondent.

2. The brief facts, which are necessary for the disposal of the above writ petition, are as follows:-

The writ petitioner, who has been appointed, as early as on 29.05.2012, in the Management Post, in the third respondent's school, temporarily, has been appointed in the

(vacant) regular post, by the appointment order, dated 27.05.2013. The petitioner was put on probation for a period of two years from the date of joining. The third respondent issued a memo, dated 21.11.2014, alleging that the third respondent-Management was receiving complaints against the petitioner. The petitioner submitted his explanation, dated 25.11.2014, to the third respondent, denying the allegations made. But, inspite of the same, the third respondent has passed the impugned order, dated 01.12.2014, terminating the services of the petitioner.

3. The learned counsel for the petitioner submitted that the (impugned) termination order, dated 01.12.2014 has been passed by the third respondent, without even giving a notice to the petitioner, therefore, the same is illegal.

4. Per contra, the learned counsel appearing for the third respondent would contend that, originally, the petitioner was appointed as a Management Employee and subsequently, he was accommodated in the regular vacancy, that arose in the year 2013, on the application made by the petitioner, that too, on probation for a period of two years. The learned counsel for the third respondent would further contend that subsequently, when his application was forwarded to the authorities concerned, the services of the petitioner were not confirmed / regularized, on the ground that he has not even passed the Teacher's Eligibility Test (TET). He would further submit that, even thereafter the petitioner was given sometime, but, then also, he has not completed the said TET. He would further submit that, in any event, since the petitioner was in probation period, his appointment was rightly rejected, as the Management could not afford him to pay the salary.

5. It is not in dispute that the petitioner was appointed at first, temporarily, and accommodated in the regular post, as per his application, dated 20.05.2013. Subsequently, his approval was rejected on the ground of non-completion of TET and consequently, he has been terminated by the authority concerned, when he was working as probationer.

6. It is common knowledge that a probationer will not have any right of enquiry, before any order is passed by the authority concerned.

7. Further, the National Council for Teacher Education (NCTE) has laid down a guideline that, one of the essential qualifications for a person to be eligible for appointment as a teacher, in any of the schools, referred to in clause (n) of Section 2 of the RTE Act (Minority Institutions) is that, he/she should pass the Teacher Eligibility Test (TET) which

with the guidelines framed by the NCTE. Admittedly, the petitioner, who is a probationer, has not acquired such qualification, at the time of passing the impugned order by the third respondent. Further more, the third respondent has terminated the services of the petitioner, vide impugned order, on administrative reasons, which this Court cannot interfere with.

8. In the result, this writ petition is dismissed. No costs. Consequently, the connected WMP is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Director of School Education,
College Road, Nungambakkam,
Chennai - 600 008
2. The District Education Officer (East Zone),
No.81, Choolaimedu High Road,
Choolaimedu, Chennai - 600 094

1 cc to Mr.Sai, Bharath & Ilan, Advocate, sr.47025

1 cc to Mr.M.K.T.Gopu, Advocate, sr.33061

W.P.No.33061 of 2014
& M.P.No.1 of 2014

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kra 15.09.2016

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