



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2016

C O R A M

THE HONOURABLE Dr.JUSTICE S.VIMALA

Writ Petition (MD) No.17607 of 2016

and

W.M.P. (MD) No.12721 of 2016

C.H.Ganesan

..Petitioner

Vs.

1.The District Educational Officer,
Musiri, Trichy District.

2.The Secretary,
Sengunthar Higher Secondary School,
Turaiyur, Trichy District.

..Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the impugned order dated .09.2016 issued by the 1st respondent vide Na.Ka.No.2244/A4/2016 signed on 09.09.2016 and quash the same.

For petitioner

... Mrs.N.Mohan

For Respondents

... Mr.S.Chandrasekar

Government Advocate

O R D E R

The proceedings of the District Educational Officer, Musiri, dated 09.09.2016, by which, the approval granted for the promotion of the petitioner as Headmaster has been cancelled, is under challenge in this writ petition.

2.Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

3.The facts leading to the filing of the writ petition run as under:-

The petitioner joined the second respondent school as B.T.Assistant. His services was regularised on and from 30.11.1983. Thereafter, the petitioner qualified himself by completing M.Phil., degree. Selection Grade was given after the completion of 10 years and thereafter, he was given Special Grade, when he completed 20 years of his service. Notional increment was also given on completion of 30 years of his service. He was appointed as Headmaster on 01.06.2016. The first respondent also gave approval for the same. Thereafter, *suo-motu*, without issuing notice to the petitioner, the first respondent has cancelled the



approval. This cancellation is challenged on the ground that the cancellation is without following the principles of natural justice.

4. The learned Government Advocate for the respondents would submit that all the teachers must be treated equal and when the promotion proposals of other teachers are kept pending, it may not be reasonable to consider the promotion of this petitioner alone and when already several promotion proposals are pending consideration in the school committee. Under such circumstances, in order to maintain status of uniformity of all teachers, the respondents have cancelled the approval already granted to the petitioner and that there is no *mala fide* intention.

5. May be it is true that there is no *mala fide* intention in cancelling the approval already granted. But the question is whether the cancellation is reasonable and whether it is in accordance with law.

6. The doctrine of equality is applicable to persons equally placed. The post of Head Master cannot be said to be equal to that of the post of a teacher. It would not have been beyond the knowledge of the approving authority that promotion proposals in respect of other teachers are pending. Even assuming that the question of treating all of them equal would arise in this case, the authority to grant promotion ought to have thought of the same before effecting promotion to the petitioner. Once the order is passed where civil consequences ensue, it is not for the authorities to cancel the order without notice to the affected party.

7. Under such circumstances, the order of cancellation dated 09.09.2016 is hereby cancelled and the writ petition is ordered accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar(CS)

To

The District Educational Officer, Musiri, Trichy District.

+1cc to the Special Government Pleader in SR.56104

+1cc to Mr.N.Mohan, Advocate in SR.55797

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