

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.1207/2017

G.Justus Abraham Devasagayam .. Petitioner

Vs

1.The Joint Director of School Education(Personnel),
Directorate of School Education,
Chennai-600 006.

2.The Chief Educational Officer,
Thiruvallur,
Thiruvallur District-602 001.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1st respondent to consider the representations dated 09.12.2015, 16.12.2016 & 30.12.2016 and to pass orders within in a stipulated time.

For Petitioner : Mr.R.Subramoniam
For Respondents : Mr.K.Dhananjayan, Spl.GP

ORDER

By consent, the writ petition is taken up for final disposal.
Mr.K.Dhananjayan, learned Special Government Pleader accepts notice on behalf of the respondents.

2 The petitioner, while working as an Assistant in the School Education Department, was visited with a criminal prosecution in the form of a case in Cr.No.5/2008 registered u/s.5[1][d] of the Immoral Trafficking Act. The petitioner also faced disciplinary proceedings in the form of charge memo dated 30.01.2009 initiated under the Tamil Nadu Civil Services [Discipline and Appeal] Rules and was placed under suspension and thereafter, it was revoked by the 1st respondent vide proceedings dated 30.06.2011 and thereafter, the petitioner was posted as an Assistant in a School coming under the control of the 2nd respondent. The criminal case has ended in a positive Final Report in CC.No.7555/2010 and vide order dated 29.03.2012, he was convicted by the Court of IV Metropolitan Magistrate, Chennai and challenging the legality of the conviction and sentence, the petitioner filed an appeal in CA.No.68/2012 before the Court of IV Additional District and Sessions Judge, Chennai, and it was dismissed on 14.02.2012 and he filed Crl.RC.No.206/2014 before this Court and it was allowed by this Court on 27.11.2015. The petitioner, after acquittal, has submitted a representation dated 09.12.2015, praying for treating the period of suspension as duty period for all purposes and since it was not considered, he filed WP.No.20415/2016 and this Court has disposed of the said writ petition, directing the respondent concerned to consider

and pass orders on the petitioner's representation dated 16.06.2016. The petitioner has also filed contempt and thereafter, the order treating the period of suspension as duty period was passed. The grievance expressed by the petitioner is that despite the above said positive development, the petitioner has not been given promotion as Superintendent on par with his juniors and in this regard, the petitioner has submitted representations dated 22.11.2016 and 30.12.2016 respectively and the 1st respondent vide communication dated 16.12.2016, has called for particulars as to whether any appeal has been preferred before the Hon'ble Supreme Court of India, as against the order of acquittal passed by this Court in CrI.RC.No.206/2012.

3 The learned counsel for the petitioner would submit that but for the launching of the criminal prosecution and disciplinary proceedings, the petitioner ought to have been given promotion and since the said proceedings has ended in his favour, he ought to have been promoted as Superintendent and prays for appropriate orders.

4 Per contra, Mr.K.Dhananjayan, learned Special Government Pleader, appearing for the respondents would submit that the petitioner has involved himself in the commission of the offence

under the Immoral Trafficking Act and as such, he cannot claim promotion as a matter of right.

5 This Court has considered the rival submissions and also perused the materials placed before it.

6 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his representation or in this writ petition, directs the 1st respondent to consider and dispose of the petitioner's representation dated 30.12.2016 on merits and in accordance with law and pass orders within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

7 The writ petition stands disposed of with the above direction. No costs.

19.01.2017

Index : Yes / No

Internet : Yes / No

AP

To

- 1.The Joint Director of School Education(Personnel),
Directorate of School Education,
Chennai-600 006.
- 2.The Chief Educational Officer,
Thiruvallur,
Thiruvallur District-602 001.

M.SATHYANARAYANAN, J.,
AP

W.P.No.1207/2017

19.01.2017

<http://www.judis.nic.in>