

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2017

CORAM :

The Hon'ble Mr.JUSTICE M.SUNDAR

W.P. No.1040 of 2010

P.Radhakrishnan

... Petitioner

Vs.

1. The Secretary,
Department of Higher Education,
Government of Tamil Nadu,
Chennai-9.

2. The Principal Secretary / Commissioner,
Directorate of Technical Education,
Guindy,
Chennai.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified mandamus to call for the records in respect of the proceedings of the 2nd respondent in order No.34963/B1/2008 dated 22.7.2009 and to quash the same and to further direct the respondents to appoint the petitioner as Principal of SS Polytechnic, Puthur, Sirkali.

For Petitioner : No appearance

For Respondents : Mr.P.Sanjay Gandhi,
Additional Government Pleader

ORDER

When this writ petition was taken up, there was no representation for the writ petitioner. However, Mr.P.Sanjay Gandhi, learned Additional Government Pleader is present on behalf of both the respondents, who are official respondents.

2. Subject matter of the writ petition is service of writ petitioner as a Senior Lecturer in an erstwhile private polytechnic taken over from an educational trust by the Government.

3. Polytechnic in question is S.S Polytechnic situated in Puthur, Sirkazhi, Nagapattinam District (hereinafter referred to as 'said Polytechnic' for brevity). It is averred by the writ petitioner that the said Polytechnic was taken

over by the Government in the year 1987 from the trust, which was running the same, namely, Srinivasa Subbaraya Polytechnic Educational Trust.

4. The crux of the matter is that the writ petitioner would say that he is entitled to station seniority as well as common seniority, post take over and therefore, he is entitled to be appointed as Principal of the said Polytechnic.

5. In this regard, the writ petitioner earlier filed a writ petition being W.P.No.9664 of 2009 in this Court. This Court disposed of the said writ petition on 26.5.2009, with a direction to the respondents to dispose of the writ petitioner's representation dated 27.8.2008. Pursuant to such direction of this Court, the impugned order has been passed by the second respondent.

6. In the impugned order, the second respondent has merely stated that the issue of absorbing the staff in the said Polytechnic, by Government, post take over is under consideration of the Government. Therefore, the impugned order is innocuous. Besides, the impugned order being innocuous, learned Additional Government Pleader also brings to my notice that post impugned order, the writ petitioner has sent a further representation dated 05.12.2009 to the second respondent before me.

7. Owing to the completely innocuous nature of the impugned order, dismissal simplicitor would follow in cases of this nature. However, I have also noticed the fact that the writ petitioner was 57 years old when the writ petition was filed in January 2010. Therefore, the writ petitioner would have in all probability superannuated by now and the writ petitioner should now be 64 years old.

8. Under such circumstances, particularly in the light of the stand of the second respondent in the impugned order that the absorption of staff in the said Polytechnic by the Government, post take over was under consideration, I deem it appropriate to direct the second respondent to dispose of the above said representation dated 5.12.2009 made by the writ petitioner within a period of four (4) weeks from the date of receipt of a copy of this order, in a manner known to law. The order that may be passed by the second respondent on the said further representation shall also be communicated to the writ petitioner under acknowledgment within a week therefrom.

9. It is made clear that if any decision has already been taken by the Government and if the petitioner is entitled to benefits of the office of the Principal, this order will not preclude the respondents from giving such benefits to the petitioner. Pursuant to the disposal of the representation, if the writ petitioner is entitled to any monetary benefits, the same shall be disbursed to the writ petitioner as

expeditiously as possible and in any event within twelve (12) weeks from the date of disposal of the said representation.

10. The writ petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Secretary,
Department of Higher Education,
Government of Tamil Nadu,
Chennai-9.
2. The Principal Secretary / Commissioner,
Directorate of Technical Education,
Guindy,
Chennai.

+1cc to the Government Pleader, S.R.No.48051

W.P.No.1040 of 2010

EV(CO)
CA(27/07/2017)



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