

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.20214 of 2016 and 38813 of 2015  
and

W.M.P.Nos.21749 & 17386 of 2016 in W.P.No.20214 of 2016  
W.M.P.Nos.1 & 2 of 2015 in W.P.No.38813 of 2015

K.Srinivasan  
Head Master,  
Adambakkam, Janobakara Sasvadha  
Nidhi Higher Secondary School,  
Alandur, Chennai 600 016. ... Petitioner in both W.P's

Vs.

- 1) The Joint Director (Higher Secondary),  
DPI Campus, College Road,  
Chennai 600 006.
- 2) The District Educational Officer,  
Chengelpet District.
- 3) Adambakkam Janobakara Sasvadha  
Nidhi Higher Secondary School,  
Alandur, Chennai 600 016.  
Rep., by its Secretary ... RR1 to 3 in both W.P's
- 4) S.Damodharan,  
P.G.Assistant Commerce,  
Adambakkam Janobakara Sasvadha  
Nidhi Higher Secondary School,  
Alandur, Chennai 600 016. ... 4th respondent in  
W.P.No.20214 of 2016

Prayer in W.P.No.38813 of 2015: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent herein in O.M.No.2159/A2/2014, dated 31.07.2014 and the consequential order of the first respondent rejecting the appeal against the said order vide order in 32567/W5/E2/2015 dated 16.11.2015 and quash the same and consequently direct the respondent to approve the appointment of the petitioner as Higher Secondary Head Master to the third respondent school with effect from 02.06.2014.

Prayer in W.P.No.20214 of 2016: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the third respondent herein not to interfere with the functioning of the petitioner in the post of Head Master Higher Secondary School.

For Petitioner : Mrs.Dakshayani Reddy  
in both WPs  
For RR 1 & 2 : Mr.K.Thangapandi,  
in both WPs Learned Government Advocate.

For R3 : No Appearance  
in both WPs  
For R4 : Mr.T.Sellapandian  
in WP.20214/16

#### C O M M O N O R D E R

As the issue involved in both the Writ Petitions are one and the same, the cases are taken up for disposal by a Common Order.

2. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was initially appointed as Physical Director Grade-I in the third respondent School with effect from 13.07.1989. The petitioner was qualified with the Masters degree in Physical Education and possessed all other required qualifications for appointment. Thus, the initial appointment of the writ petitioner as Physical Director Grade-I was in order.

3. The learned counsel for the writ petitioner states that the writ petitioner has served as Physical Director for about 25 years in the cadre of PG Assistant and therefore, he is fully qualified for the promotion to the post Head Master in the Higher Secondary School. The petitioner states that, though he is fully qualified and his case was considered by the third respondent School for the promotion to the post of Head Master, he was promoted as Head Master in proceeding dated 31.05.2014. Pursuant to the order of promotion, the writ petitioner has taken charge on 02.06.2014 and he continued in the same post. When the third respondent Management submitted a proposal for approval of the appointment, the same was rejected by the District Educational Officer, Chengelpet in proceeding dated

31.07.2014, stating that the petitioner has not complied with the qualifications stipulated in the Rules of Tamil Nadu Private Schools (Regulations) Rules of 1974.

4. The learned counsel for the petitioner states that the writ petitioner has acquired the qualification of M.A. in Economics and M.A. in Political Science. This apart, he has completed B.Ed., course in the year 2012. Further, he acquired the experience of about 25 years in the category of Physical Education Director (PG Assistant). Therefore, there is no irregularity in the appointment of the writ petitioner as Head Master in the third respondent School and the rejection order is contrary to the Rules in force.

5. The learned counsel appearing for the fourth respondent opposed the contentions by stating that the order impugned is in accordance with the rules in force. No doubt, the writ petitioner has acquired the qualification of M.A. degree in Economics as well as in Political Science and also completed B.Ed., course in the year 2012. However, he is not possessing the required experience as contemplated under the Rules. Thus, the order of rejection of approval of the appointment of the writ petitioner is in accordance with the rules in force.

6. This apart, the learned counsel for the fourth respondent is of the opinion that in respect of the Government Schools, the Government issued G.O.94, School Education Department dated 22.06.2006. Even in that order, it is stated that:-

"(iii) (a) Experience for a period of not less than 10 years of B.T. Assistant or Pandit or PG Assistant in academic subject or Post graduate Assistant in language in a Secondary School or Training School or Higher Secondary School recognized by the Director of School Education, subsequent to acquiring a teaching degree.

Clause (b) states that:-

"In the case of Physical Directors/ Physical Directress, experience for a period of not less than 10 years after acquiring BT or B.Ed., qualification."

7. By citing this Government order, the learned counsel for the fourth respondent urged this Court by stating that first of all, experience in the academic subject is must. Secondly, in respect of Physical Education Director, 10 years of experience

to be completed after the completion of BT/B.Ed., qualification. When the Government has prescribed this qualification for appointment to the post of Head Master in Government schools, the contrary explanations or interpretations provided by the learned counsel for the petitioner cannot be accepted. This apart, the learned counsel for the fourth respondent states that all along the writ petitioner has served as Physical Education Director and he never possessed any experience in teaching, more specifically in the academic side. When he has not acquired any academic teaching experience, then he is not eligible to be appointed as Head Master in accordance with the rules.

8. The learned Government Advocate appearing on behalf of the respondents 1-3 is of the opinion that the order impugned was issued in accordance with the Rules in force. In respect of the teaching experience possessed by the writ petitioner, the proposal submitted by the third respondent was rejected. The writ petitioner has not possessed the experience in the academic side and he is possessing the experience only in the cadre of Physical Education Director non-academic. Thus, the order of rejection passed by the respondents are in accordance with the Rules.

9. Considering the arguments advanced by the respective learned counsel appearing for the respondents as well as the petitioner, this Court has to now consider the Rules in force. The Tamil Nadu Recognized Private Schools Rules(1974), Clause IV deals with the qualifications for appointment of teachers of Higher school categories. The sub clause (1) deals with Head Master/ Head Mistress (Higher Secondary schools) . The qualifications prescribed are as under:-

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| Name of the Post                                        | Qualifications                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Headmaster or Headmistress (Higher Secondary School) | <p>i. A Master's Degree for teaching any of the languages under parts I and II or subjects for Higher Secondary courses or its equivalent in any of the subjects or language specified in the said syllabus or a certificate in science and humanities for Graduate teachers in High Schools.</p> <p>ii. B.T. or B.Ed., degree or the equivalent.</p> <p>iii. Experience for a period of not less than ten years as B.T.School Assistant or Pandit in a Secondary School or training School or Higher Secondary School recognised by Director of School Education.</p> <p>Provided that the experience in the category of Headmaster and Headmistress in a school recognised by the Director of School Education shall be taken into account for calculating the experience in the Category or B.T. Assistant.</p> |

10. It is relevant to note the Rules contain certain explanations in Clause IV. The explanations states that, " the qualifications prescribed as above for all posts, shall be applicable for appointments to be made in private schools or after the date of the publication of the notification of rules. Persons who are in service prior to the issue of notification shall be eligible for appointment in any other school even after the issue of notification". The next paragraph stipulates that " the Director of School Education shall be the Authority competent to evaluate and accept other qualifications for the purpose of appointment in other schools."

11. Now, let us examine the qualifications acquired by the writ petitioner for the purpose of securing appointment as Head Master in the third respondent School. The writ petitioner has acquired the qualification of Master's Degree in Physical Education and appointed as Physical Director Grade-I on 13.07.1989.

12. The petitioner has completed SSLC in April 1979. Further, he has passed +2 course in April 1981. As stated earlier, he completed Master's Degree in Physical Education in the year 1987 and he was appointed on 13.07.1989. When the writ petitioner was in service, he acquired the qualification of B.A. in Economics in November 1984. Thereafter, he passed M.A. in Political Science in October 1989. The petitioner completed M.A. Economics in May 2009 and thereafter passed B.Ed., course in 2012. Though the writ petitioner has acquired the qualification of M.A. Economics and Political Science, he had no opportunity to serve in the academic line for about 25 years and all long, he has served as Physical Education Director, which is non-academic.

13. This Court is of the undoubted opinion that the Act and Statutory Rules cannot be interpreted beyond its scope. The Act and Rules are to be interpreted in its actual meaning and the interpretation and the constructive interpretation can be provided by the Constitutional Courts, only if the same is intended in the Rules. This Court while interpreting the rules cannot do so, beyond its scope and the Rules are always to be interpreted as it stands. More so, in respect of educational qualifications, there cannot be any secondary interpretation, or otherwise. The qualifications prescribed in the Rules are to be adhered to strictly and scrupulously. The Competent authorities are also bound to adopt the rules in its strict sense. Providing interpretation in a different manner, would certainly dilute the educational qualifications as prescribed in the Rules. As this Court is of the view, that there cannot be any other interpretation other than the language used in the Rules in respect of the educational qualification for appointment to the post of Head Master or Head Mistress.

14. The Rules in force states that the Master's degree from an University which is not a dispute in respect of the writ petitioner. In respect of BT/B.Ed., qualification, the writ petitioner has acquired qualification of B.Ed., in the year 2012. In this context, the learned counsel appearing for the fifth respondent states that, even if the Government Rules are taken into account, the writ petitioner is not qualified, since he has not completed 10 years of experience after acquiring the B.Ed., qualification in the year 2012. However, this Court is not inclined to consider such a plea in view of the fact that the Government Rules are not made applicable nor the Rules in Tamil Nadu recognized Private school rules underwent an amendment in this regard. As of now, the Rules stands that, "experience for a period not less than 10 years as B.T. Assistant or Pandit or PG Assistant in a Secondary School or Training School or Higher Secondary School recognized by the Director of School Education". On a perusal of the entire provisions, this

Court is of the opinion that it relates to B.T. Assistant or Pandit or PG Assistant in a Secondary School or Training School or Higher Secondary School recognized by the Director of School Education. There is no other clause in respect of providing to physical education teachers. Unlike the Government Schools, the Tamil Nadu recognized Private Schools Regulations Rules does not provide any scope for the Physical Education Directors to be appointed as Head Master / Head Mistress of the Higher Secondary Schools.

15. There is a purpose behind prescribing academic qualification for appointment to the post of Head Master / Head Mistress. A Head Master / Head Mistress of a school should have an experience in the academic qualification is the intent of the Rules. When the intent of the Rules are that, the person, who possess the experience in the academic line as BT School Assistant / Pandit alone is eligible for appointment to the post of Head Master / Head Mistress, this Court cannot have any option or this Court cannot enlarge or expand the interpretation in respect of the Rules prescribed. The language used in the Rules alone must be the criteria for providing interpretation. When the language in the Rule, unambiguously portrays that the experience for a period not less than 10 years as B.T. Assistant or Pandit or PG Assistant in a Secondary School or Training School or Higher Secondary School, there is no scope for providing interpretation that the person who secured experience as Physical Education director (PG Assistant) is also eligible to the post of Head Master / Head Mistress.

16. The learned counsel for the writ petitioner, at this juncture, states that the fourth respondent is also serving as PG Assistant and he is also not qualified. This Court is not interested in deciding whether the fourth respondent is qualified or not. When his case is taken up for consideration, it is for the competent authorities to decide whether the fourth respondent is qualified for the appointment for the post of Head Master / Head Mistress or not. The said exercise has to be undertaken only when the case of the fourth respondent is under consideration for appointment.

17. The learned counsel for the writ petitioner cited the judgment of the Hon'ble Supreme Court in the case of Anil Kumar Gupta and Others vs Municipal Corporation of Delhi, wherein the learned counsel cited the following paragraph:-

"Point 2: On this question, the learned senior counsel Sri.P.P.Rao for the selected candidates contended that the experience of the respondents while holding Diploma has to be counted in addition to the period of experience which they obtained after getting their degrees. Reliance in this behalf was placed upon M.B.Joshi Vs.Satish Kumar Pandey (1993

Supple (2) SCC 419) and D.Stephen Joseph Vs. Union of India (1997(4)SCC 753) On the other hand, learned senior counsel for the appellants, Sri Rakesh Dwivedi, Sri Ravinder Sethi and Sri.S.B.Sanyal contended that the experience of the respondents while holding diploma, could not be counted. They relied upon N.Sures Nathan Vs. Union of India (1992 Supple.(1) SCC 584). "

18. This Court has gone through the judgment and found that the case and the qualification in respect of facts of the said case decided by the Supreme Court of India cannot have any direct application since the case on hand, relates to the Rules relating to the Private School in the State of Tamil Nadu and this Court is bound to go by the Rules, when the facts and circumstances are entirely different. The Hon'ble Supreme Court time and again emphasized that the facts and circumstances of each case has to be decided with relevance to the Rules concerned and there cannot be any similarities in such circumstances. This being the fact the judgment cited by the learned counsel for the writ petitioner is of no avail in respect of the case on hand.

19. Presently, this Court is bound to deal with the experience as possessed by the writ petitioner with relevance to the Rules in force. As cited supra, this Court cannot give any other interpretation other than the language unambiguously portrayed in the Rules itself. When the Rules are clear in nature and the writ petitioner has not possessed the required experience of 10 years as B.T. Assistant or Pandit or PG Assistant in a Secondary School or Training School or Higher Secondary School, this Court has to declare that, the order of appointment of the writ petitioner as Head Master / Head Mistress is not in accordance with the Rules in force. Thus, the order of rejection passed by the respondents 1 and 2 are in accordance with the Rules stated above and there is no infirmity in the order impugned. Accordingly, this Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

1) The Joint Director (Higher Secondary),  
DPI Campus, College Road,  
Chennai 600 006.

2) The District Educational Officer,  
Chengelpet District.

+1 cc to the Govt Pleader sr 86284

+1 cc to Mr.T.Sellapandian Advocate sr 8624

+1 cc to M/s.Dakshayani Reddy Advocate sr 85796

Common Order in  
W.P.Nos.20214 of 2016  
and 38813 of 2015

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