

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.12.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16913 of 2013

T.Thirukumaran

..Petitioner

vs

1.The Secretary,  
Higher Secondary School Education,  
Secretariat, Fort St.George,  
Chennai - 9.

2.The District Collector,  
Collectorate, Cuddalore District.

3.The District Chief Education Officer,  
Cuddalore at Virudachalam,  
Cuddalore District.

4.The Inspector of Schools,  
Cuddalore, Cuddalore District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any other Writ or Order or Direction in the nature of Writ to appoint the petitioner in the post of computer teacher with a consolidated pay of Rs.5000/-, now sanctioned in the proceedings Na.Ka.No.:2325/A1/AKE/2011 dated 29.12.2011 of the 3<sup>rd</sup> respondent - CEO (Chief Education Officer), Cuddalore for regularization etc other consequential benefits and thus render justice."  
(Prayer amended as per order dated 23/01/2015 in M.P.No.1/15 in W.P.No.16913/2013)

For Petitioner : Mr.E.Ponnappa Pillai

For Respondents : Mrs.K.Bhuvaneswari  
Government Advocate

O R D E R

The relief sought for in this writ petition is for a direction to the respondents to appoint the petitioner in the post of computer teacher with a consolidated pay of Rs.5000/-,

now sanctioned in the proceedings Na.Ka.No.:2325/A1/AKE/2011 dated 29.12.2011 of the 3<sup>rd</sup> respondent - CEO (Chief Education Officer), Cuddalore for regularization etc other consequential benefits.

2.The learned counsel for appearing on behalf of the writ petitioner states that the writ petitioner is B.A., Graduate and further passed three years P.G.Diploma Course in Computer Application. The petitioner has registered his name in the Employment Exchange on 20.07.2000 at Cuddalore District. He was appointed as part-time trainer for school drop outs in Middle School of Pothumangalam Panchayat Union from 01.01.2006. The petitioner was working from September 2004 to April 2005 for a Honorarium as a Teacher in the Middle School. Again, he was appointed during the Academic Year 2005-2006 and continued in service till the academic period 2011-2012. The salary for the last 10 months was given under the Sarva Shiksha Abhiyan(SSA Scheme). The scheme was introduced for school drop outs. The petitioner was given with a certificate to that effect. Subsequently, the writ petitioner was engaged and he has submitted representations to the respondents and none of the representations were considered. Thus, the writ petitioner is constrained to move this writ petition under Article 226 of the Constitution of India.

3.Appointments can never be claimed as a matter of right. The learned counsel for the petitioner brought to the notice of this Court that the writ petitioner had been paid salary and proof for the salary is enclosed along with the typed set of papers filed in this writ petition.

4.The legal principle in this regard is that appointment can never be claimed as a matter of right. Equal opportunity in public employment is a Constitutional mandate. No appointment can be made in violation of the recruitment rules in force. All appointments are to be done by following the rules relating to the appointment and the authorities granting irregular or illegal appointments are to be prosecuted under the Discipline and Appeal Rules. The competent authority who are dealing with appointments are to be cautious, while issuing appointment orders on temporary basis. Undoubtedly, the authorities are entitled to appoint persons on part-time, temporary, contract or daily wages basis. However, the period of employment, nature of employment, terms and conditions of services and the schemes in particular to be categorically mentioned in the appointment order and on completion of such schemes or period, their services ought to have been terminated in accordance with the terms and conditions of such temporary appointments. Allowing an employee to continue beyond the scope of the terms and conditions of the appointment, then the authority who allowed

such employees is certainly would subjected to disciplinary proceedings in accordance with the Discipline and Appeal Rules. The competent authorities cannot provide a false scope to the employees or they should not allow the employees to continue for a long period and thereby creating an expectation in the minds of the employees in relation to the grant of regularization or permanent absorption. Such an attitude of the employers are to be deprecated.

5.This Court is of the opinion that the Constitutional Courts across the country, time and again reiterated and emphasized that all irregular and illegal appointments to be avoided and employment to the public services to be provided equally to all the eligible citizen of this great Nation. The meritorious youth of this nation are burning their mid night lamps and preparing for participating in the open competitive process. The rights of these citizens are also to be protected by the Courts. The Courts should not neglect the larger group, who are aspiring and longing to secure public employment by participating in the open competitive process. Thus, a mere filing of the writ petition on the ground that the writ petitioner had participated in the interview would not constitute a ground for granting the relief of appointment or even for a direction to consider his claim. For granting any such relief, the petitioner has to establish a legal right to entertain a writ petition. Establishing a legal right, is pre condition. In the case on hand, the writ petitioner has not established even a semblance of legal right so as to consider even for issuing a direction to consider his representation. Such being the factum of the case, this Court is not inclined to consider the relief as such sought for in this writ petition.

6.Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

सत्यमेव जयते  
Assistant Registrar (CS V)

//True copy//

Sub Assistant Registrar

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To

1.The Secretary,  
Higher Secondary School Education,  
Secretariat, Fort St.George,  
Chennai - 9.

2.The District Collector,  
Collectorate, Cuddalore District.

3.The District Chief Education Officer,  
Cuddalore at Virudachalam,  
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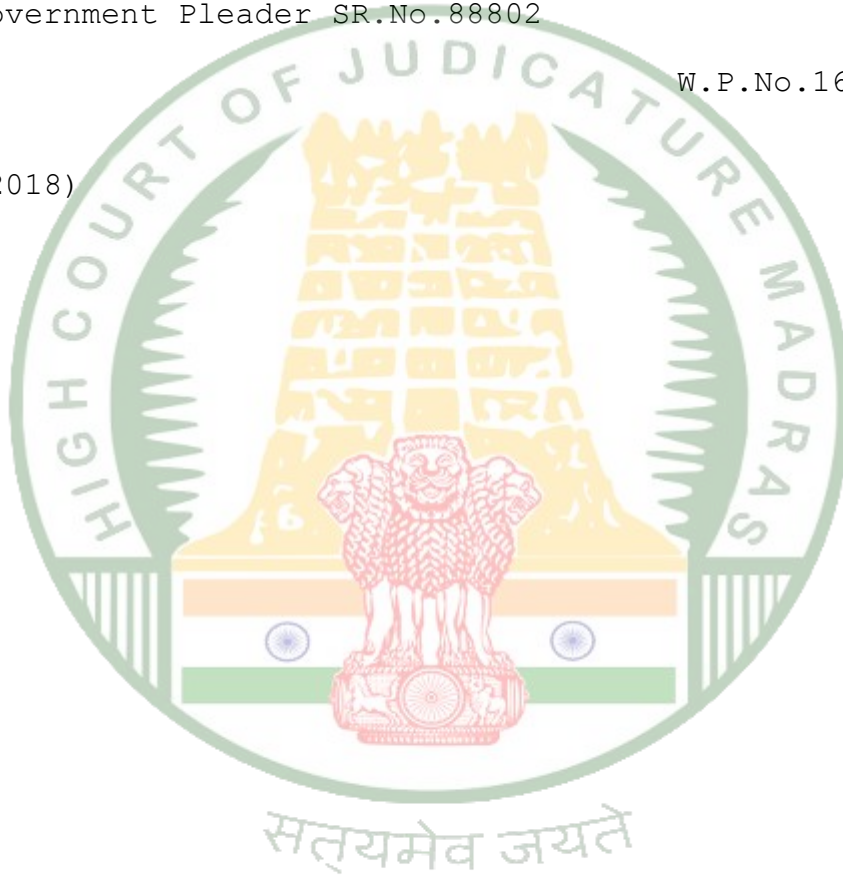
4.The Inspector of Schools,  
Cuddalore, Cuddalore District.

+lcc to Mr.O.A.V.Srimatny, Advocate SR.No.88255

+lcc to Government Pleader SR.No.88802

W.P.No.16913 of 2013

GN(05/01/2018)



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