

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.18452/2012

P.Rammesh

.. Petitioner

Vs.

- 1.The Secretary to Government
State of Tamil Nadu,
Education Department,
Fort St George, Chennai 600009.
 - 2.The Director of School Education,
DPI Compound, College Road
Chennai 600006.
 - 3.The Joint Director of School Education,
[Vocational], DPI Compound, College Road
Chennai 600006.
 - 4.The Chief Educational Officer,
Saidapet, Chennai 600015.
 - 5.The Secretary / Correspondent
PAK Palanisamy Higher Secondary
School, No.1, PAN Rajarathinam
Salai, 4th lane, Old Washermanpet
Chennai 600021.
- ...Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for a writ of mandamus directing the respondents 1 to 3 to consider the detailed representation of the petitioner dated 09.04.2007 with reference to representations dated 04.08.2008, 23.05.2008, 02.08.2011 and 29.03.2012 and pass orders thereon approving the appointment of the petitioner as Vocational Instructor Grade I with effect from 09.02.2007 being the date of G.O.Ms.No.35, with all monetary and other attendant benefits thereon.

For Petitioner : Mr.C.Johnson

For RR 1 to 4 : Mr.K.Dhananjayan, Spl.GP

ORDER

By consent, the writ petition is taken up for final disposal.

2 The claim of the petitioner for his appointment as Vocational Instructor [Grade I] with effect from 09.02.2007, failed to invoke any kind of response and therefore, came forward to file the present writ petition.

3 The petitioner, in the affidavit filed in support of this writ petition, would aver among other things that he possesses B.B.A., PGDCA [Post Graduate Diploma in Computer Application] apart from M.Com and was appointed by the 5th respondent / School wide appointment order dated 08.10.1997 as a Full Time Instructor for teaching vocational subject, i.e., Computer Science. The petitioner would further aver that the 2nd respondent had also accepted the recommendation of the 4th respondent and duly permitted the 5th respondent / School wide proceedings dated 13.08.1986 in RC.No.15182/A5/86 to commence Computer Course for the academic year 1986-1987 along with the other courses and it is the claim of the petitioner that he satisfied all the norms for approval of his post as "Vocational Instructor". The petitioner would further claim that he is the only teacher taking Computer course for the Higher Secondary classes, i.e., 11th and 12th standard, ever since his date of appointment on 08.10.1997 and he is drawing consolidated salary being paid by the 5th respondent / Management. The petitioner also aver that in the light of G.O.Ms.No.35, School Education [VE] Department dated 09.02.2007 and G.O.Ms.No.69 of the very same Department dated 20.03.2007, he is eligible to be regularised as Computer Teacher ever since from the date of his appointment with regular time scale of pay as applicable to the Vocational Teacher / Instructor [Grade I]. It is further claimed that persons similarly placed, had approached this Court, by filing WP.Nos.20641, 21112, 21150 and 21159/2008, in which, the Government of Tamil Nadu represented by the Secretary to Government, School Education Department, Chennai-9 ; The Director of School Education, Chennai-6 and the Joint Director, School Education [Vocational] Department, Chennai-6, were arrayed as respondents and vide common order dated 29.08.2008, this Court has disposed of the said writ petitions to consider and dispose of the petitioners' representations in the light of G.O.Ms.No.35, School Education [VE] Department dated 09.02.2007 and pass appropriate orders and in compliance of the order, the Joint Director [Vocational], Chennai-6, had also passed orders, granting approval of the appointment and other consequential benefits and since the petitioner is also

similarly placed, he is entitled to such benefits and prays for appropriate orders.

4 Mr.C.Johnson, learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that there are two sanctioned posts of Vocational Teacher/Instructor available in the 5th respondent / School and the petitioner is the only appointee and since he fulfills necessary qualification and criteria and taking classes right from the date of his appointment, i.e., 08.10.1997, his appointment should be approved and he is eligible to get time scale of pay from the date of his initial appointment and prays for appropriate orders.

5 Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents 1 to 4 has drawn the attention of this Court to the counter affidavit filed by the 4th respondent and would submit that G.O.Ms.No.35, School Education [VE] Department, dated 09.02.2007, 201 Vocational Instructors who are fully qualified were appointed and since the name of the petitioner was not found, he was not considered for appointment and would further aver that insofar as the 5th respondent / School, though the Staff strength was fixed, the concerned order would indicate that it is only a needy post and it cannot be equated with the sanctioned post and as such, the claim made by the petitioner cannot be considered and prays for dismissal of the writ petition.

6 This Court paid its best attention to the rival submissions and also perused the materials placed before it.

7 As per G.O.No.35, School Education [VE] Department, dated 09.02.2007, which in turn, places reliance upon G.O.[2D] of the very same Department dated 12.09.2006, would stated among other things that when the demand pertains to School Education Department for the year 2006-2007 was raised, the Honourable Chief Minister of the State of Tamil Nadu has passed an order, to give the time scale of pay and accord priorities in respect of teachers appointed through Parents-Teachers Association as well as by the Management temporarily as Vocational Teachers / Instructors and accordingly, 201 Vocational Instructors were appointed through Parents-Teachers Association on temporary basis and their services have been regularised in the time scale of pay at Rs.4500-125-7000 and since the name of the petitioner has been inadvertently omitted by the 5th respondent / School Management, he is eligible to get the very same benefits in terms of the above cited Government Order.

8 Subsequently, as per G.O.Ms.No.69 of the 1st respondent Department, dated 20.03.2007, in compliance of the orders dated 08.07.2004 made in WP.Nos.9780/1995 and 14027/1996, Grade I scale has been accorded and it is also pertinent to point out at this juncture that the 4th respondent herein, vide proceedings dated 13.04.2009 in Na.Ka.No.2680/Aa4/2009, has called upon the 5th respondent / School Management to furnish certain particulars of the petitioner and accordingly, it was furnished on 23.05.2009 by the 5th respondent / Management and however, no orders have been passed.

9 The 4th respondent, who has sworn to the affidavit on behalf of the respondents 1 to 3, did not seriously dispute the qualification and eligibility of the petitioner ; but in paragraph No.13, took a stand that as per G.O.Ms.No.525 of the 1st respondent dated 29.12.1997 that the staff strength was fixed and it was indicated in the relevant column "needy post" that two Vocational Instructors are eligible for the school and it cannot be equated with the sanctioned post.

10 It is to be noted at this juncture that the petitioner is working the said school as Vocational Instructor right from October 1997 and is taking classes for Higher Secondary Course students and in the light of the fact that there is no dispute as to his qualification and eligibility and coupled with the stand that his name has been inadvertently omitted by the 5th respondent / School while forwarding the list to the 1st respondent, this Court is of the view that the claim made by the petitioner seeking approval of his appointment with consequential benefits is to be positively considered by the respondents 1 to 4.

11 It is not clear from the counter affidavit of the 4th respondent as to the difference between "needy post" and "sanctioned post" and it is the submission of the learned counsel for the petitioner that though, even for the sake of argument, the stand taken by the 4th respondent is tenable as to the availability of the needy post, the petitioner alone, is working in that capacity.

12 This Court, in the light of the above facts and circumstances, directs the respondents 1 to 4 to apply G.O.Ms.Nos.35 and 69 of the 1st respondent dated 09.02.2007 and 20.03.2007 respectively, as to the claim made by the petitioner and also take note of the proceedings of the 4th respondent dated 13.04.2009 and the response of the 5th respondent dated 23.05.2009 and pass appropriate orders in the light of the observations made in this writ petition as

expeditiously as possible and not later than twelve weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as to the 5th respondent / School.

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

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government
State of Tamil Nadu,
Education Department,
Fort St George, Chennai 600009.
- 2.The Director of School Education,
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Salai, 4th lane, Old Washermanpet
Chennai 600021.

+1cc to Mr.C.Johnson, Advocate SR.No.21473

+1cc to Government Pleader SR.No.21723

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SDR 18.04.2017