



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2017

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE T. RAJA

W.P. (MD) No. 20940 of 2014 and 22730 of 2015

W.P.No.20940/2014

P. Magalingam

... Petitioner

Vs.

1. The Joint Director (Secondary)
O/o. Joint Director of School Education,
D.P.I. Campus, College Road,
Chennai.
2. The Director of School Education
College Road,
D.P.I. Campus, College Road,
Chennai.
3. The District Educational Officer,
O/o. The District Educational Officer,
Usilampatti Educational District
Usilampatti,
Madurai District
4. The Secretary
Sri M.K.V Sala Higher Secondary School
S. Melapatti, Santhaiyoor Post
Peraiyur Taluk
Madurai District
5. The Secretary
Kasthuriba High School
Kasthuriba Village,
Erode District

... Respondents

(R5 has been impleaded vide

order of the Court made in WMP No. 2512/2017 dated 19.06.2017)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to retain the petitioner in the 4th respondent school as B.T. Assistant (Science) and disburse the salary of the petitioner for every month including the arrears of salary within the period that may be stipulated by this Court.



WEB COPY

For Petitioner	: Mr.K.K.Senthilvelan
For Respondents	: Mr.D.Muruganandham
R1 to R3	Additional Government Pleader
R4	: Mr.Jerin Mathew
R5	: Mr.Loganathan

W.P.No.22730/2015

P.Magalingam

... Petitioner

Vs.

1. The Joint Director (Secondary)
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Usilampatti Educational District
Usilampatti,
Madurai District
4. The Secretary
Sri M.K.V Sala Higher Secondary School
S.Melapatti, Santhaiyoor Post
Peraiyur Taluk
Madurai District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 4th respondent in his proceedings Nil dated 11.12.2015 and quash the same as illegal and consequentially to direct the respondents to retain the petitioner in the 4th respondent School as B.T. Assistant (Science) and disburse the salary of the petitioner for every month including the arrears of salary within the period that may be stipulated by this Court.

For Petitioner	: Mr.K.K.Senthilvelan
For Respondents	: Mr.D.Muruganandham
R1 to R3	Additional Government Pleader
R4	: Mr.Jerin Mathew

**COMMON ORDER**

By consent of both sides, these writ petition themselves are taken up for final disposal.

2. Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents 1 to 3 and learned counsel for the respondents 4 and 5.

3. The petitioner was appointed as B.T. Assistant (Science) on 30.04.2009 in the 4th respondent School, namely, MKV Sala Higher Secondary School, S.Melapatti. His appointment was also approved by the District Educational Officer, third respondent herein, on 08.05.2009. Prior to his appointment, one Mr. Pandiarajan was serving in the 4th respondent School as BT Assistant in Science, but as he was not having the requisite qualification and possessing only B.Sc. in Industrial Chemistry, approval was not granted. Therefore, he filed two writ petitions, namely, W.P.(MD) Nos.467/2009 and 993/2009 challenging the correctness of the cancellation order, as his approval was refused. The said writ petitions were dismissed on 23.04.2009. Aggrieved thereby, he filed two writ appeals in W.A.(MD) Nos.247 and 248/2009. But the Division Bench of this Court by order dated 21.08.2009 allowed the appeals, thereby directed the first respondent Director of School Education, Chennai, to consider the redeployment of the petitioner in a suitable post within a period of two weeks from the date of receipt of the judgment.

4. After the order passed by the Division Bench on 21.08.2009 allowing the writ appeals filed by Mr. Pandiarajan directing the District Educational Officer, Usilampatti Educational District to give approval for appointment of Mr. S. Pandiarajan within a period of three weeks and followed by an order passed by this Court in a contempt Petition No.457/2009, Mr. Pandiarajan was accommodated in the 4th respondent School and the petitioner was deployed in Kasthuriba High School at Erode, the 5th respondent School.

5. However, it is pleaded by the learned counsel for the petitioner that when the petitioner went to the 5th respondent School to join as per the redeployment order dated 30.07.2013, he was refused to join on the ground that the 5th respondent School was having less number of students strength. In view thereof, the petitioner has given a letter to the 4th respondent mentioning that the 5th respondent had refused to accommodate the petitioner on 01.08.2013. Again one more representation was given on 10.09.2013 to the Director of School Education, 2nd respondent herein. Finding no response, the petitioner came back to the 4th respondent School and the Secretary of the said School also graciously permitted the petitioner to serve as B.T. Assistant (Science) in the 4th respondent School. However, he has not been paid with salary. As the 4th



respondent School is an aided School, without a proper order of approval issued by the 2nd and 3rd respondents, the petitioner is not in a position to receive his salary from the 4th respondent. Hence, the petitioner is before this Court with these writ petitions.

6. The learned counsel for the 5th respondent submitted that when the petitioner came to them on 31.07.2013, with the deployment order dated 30.07.2013, he was informed that the Management was willing to accept him, whereas, the petitioner himself sought time to join duty. Moreover, the 5th respondent School needed two more B.T. Assistant posts additionally as per the student strength and as such, the 5th respondent School was ready to accept the petitioner. However, the petitioner instead of joining the 5th respondent School has filed the writ petition praying for a direction to the respondents to retain the petitioner in the 4th respondent School as B.T. Assistant Science. On this score, the learned counsel for the 5th respondent submitted that the contention made by the petitioner that he was not permitted to join in the 5th respondent School is wholly wrong.

7. Recording the submission made by the learned counsel for the 5th respondent, without going into the merits of the matter, the petitioner is directed to join in the 5th respondent School within two days from the date of receipt of a copy of this order.

8. On receipt of the joining report from the petitioner, the 5th respondent shall permit him to serve as per the original deployment order dated 30.07.2013. However, the salary will be paid only from the date of joining.

9. In view of the serious litigations started from 2009 and the order passed by the Division Bench in W.A.(MD) Nos.247 and 248/2009 on 21.08.2009, allowing the writ appeals filed by Mr.Pandiarajan, the respondents shall consider the notional promotion of the petitioner, on humanitarian consideration and the petitioner is also directed to give a representation for the same and if any such representation is made, the same shall be considered in accordance with law.

9. The Writ Petitions are disposed of with the above directions. No costs.

Sd/-
Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar



To

1. The Joint Director (Secondary)
O/o. Joint Director of School Education,
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2. The Director of School Education
College Road,
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3. The District Educational Officer,
O/o. The District Educational Officer,
Usilampatti Educational District
Usilampatti,
Madurai District.

+ 1 CC TO Mr.R.M.LOGANATHAN, ADVOCATE IN SR No. 79997

+ 2 CC TO Mr.K.K.SENTHIL VELAN, ADVOCATE IN SR No. 79644

RR

TE/SV-MMS/SAR-IV : 24/10/2017 : 5P/7C

W.P.(MD)Nos.20940 of 2014 and 22730 of 2015
M.P.No.1 of 2014 in W.P.No.20940/2014 and
1 and 2 of 2015 in W.P.No.22730/2015
19.09.2017