



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2017

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRMANIAN

WEB COPY

Writ Petition(MD)No.3979 of 2015

R.John Gnanaraj

... Petitioner

Vs.

1.The Director of Elementary School Education,
DPI compound,
Chennai.

2.The District Elementary Educational Officer,
Tirunelveli-2.

3.The Assistant Elementary Educational Officer,
Kezhapavoor Range,
Tirunelveli District.

4.The Additional Assistant Elementary Educational Officer,
Sankarankovil,
Tirunelveli District.

5.The Additional Assistant Elementary Educational Officer,
Kurvikulam Range,
Tirunelveli District.

6.The Manager,
TDTA Primary & Middle School,
Diocesan Office,
Palayamkottai,
Tirunelveli-2.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 1st and 2nd Respondents to regularize petitioner's service as B.T assistant from 12.08.2008 to 15.11.2012 with all service benefits.

For Petitioner

: Mr.S.Mathavan

For Respondents 1-5

: Mr.S.Kumar

Additional Government Pleader.

For 6th Respondent

: No appearance

**ORDER**

The prayer in the writ petition reads as follows:-

"The writ petition has been filed for the issuance of a writ of mandamus, to direct the respondents 1 and 2 to regularize petitioner's service as B.T assistant from 12.08.2008 to 15.11.2012 with all service benefits."

2.The petitioner, who is a victim of infighting among the office bearers who claimed control over the educational agency is before this Court seeking a writ of mandamus directing the respondents 1 and 2 to regularize his service as B.T.Assistant during the litigative period namely, 12.08.2008 to 15.11.2012. The petitioner was a teacher in the sixth respondent management and in a scramble for control of the management of the schools run by the Diocese, was promoted and transferred as the Headmaster of the T.D.T.A. Middle School, Arunachalapuram on 11.08.2008. He appears to have joined duty on 12.08.2008. While so, one Tmt.Jeyathilagam claimed to have been appointed as the Headmaster of the said school by Rev.Peter Devadoss who claimed to be the manager of Primary and Middle Schools run by the C.S.I, Diocese.

3.It is an admitted case that the institutions of C.S.I, Diocese of Tirunelveli are administered by the elected representatives and elections would be held once in four years. There was a bitter fight for control of the schools between two groups which went up to the Hon'ble Supreme Court. Though the petitioner attempted to retain his post of the Headmaster and approached this Court earlier he was unsuccessful. However, he was allowed to continue in the same school by virtue of an undertaking given by the management which has been recorded by this Court in the order in W.P.(MD)No.8133 of 2008, dated 30.09.2008. The officers of the Education Department also recorded the fact that the petitioner has been serving in the middle school at Arunachalapuram in their inspection report. The petitioner was finally demoted by the management and posted at Kulakattankurichy by the proceedings of the educational agency dated 26.07.2012. The said order was challenged by the petitioner in W.P.(MD)No.11008 of 2012 before this Court. The petitioner has also filed W.P.(MD) No.12485 of 2010 seeking issuance of writ of mandamus directing the respondents to pay salary to the petitioner for functioning as the Headmaster of T.D.T.A Middle School, Arunachalapuram. Both the writ petitions were taken up together for final disposal and this Court had held as follows, in its order, dated 15.11.2012.

"6.Today, it is submitted by Mr.Veera.Kathiravan, learned counsel for the petitioner that the petitioner is not prepared to serve in the reverted post, as he has, like many other employees of the institution, re-conciled himself to the fate of being an employee of this



institution. In view of the fact that the petitioner is prepared to serve in the reverted post, no adjudication is actually warranted. Therefore, both these writ petitions are disposed of, permitting the petitioner to join in the reverted post. **It is made clear that the petitioner will be entitled to the salary of the post in which he actually rendered service for the period during which he worked, sans any leave or absence. No costs. Consequently, connected miscellaneous petition is closed."**

4. Thereafter, the petitioner had joined as Headmaster of the Primary School, Kulakattankurichy. The petitioner has made representation to the respondents seeking regularisation of his services between 12.08.2008 to 15.11.2012 as Primary School Headmaster though he had actually worked in the vacancy of a B.T. Assistant. The fact that the petitioner has worked in the middle school at Arunachalapuram is admitted and it appears that the petitioner is a victim of the power struggle that existed in the educational agency. Such power struggle and such imbalance in the educational agency will only affect the quality of the teachers as well as the standard of the institutions run by the educational agency. It would have been appreciable if only the educational authorities had woken up to the situation prevailing in the educational agency and had put it under their direct control. However, there appears to have been some hesitation on the part of the educational authorities also in view of the fact that the educational agency belongs to a religious minority.

5. Apart from relying upon a decision of this Court in W.P.(MD)No.11008 of 2012, learned counsel for the petitioner has also produced an order of this Court in W.P.(MD)No.328 of 2014, dated 02.03.2015, wherein the services of similarly placed person working under the same educational agency namely, T.D.T.A Primary and Middle School have been directed to be regularised. This Court has observed as follows:-

"8. Therefore, I am of the view that the petitioner's service as a Secondary Grade Teacher has to be regularised by including the period from 12.08.2008 to 26.06.2012, as the said post was not at all filled up by the Management by appointing any other teacher in the said Ettiseri School. Insofar as the remaining period is concerned, namely, 11 months 9 days, the petitioner is not entitled to the salary. However, the service of that period is also to be counted as Secondary Grade Teacher for the purpose of pension and other benefits."

6. In view of the above, the petitioner would also be entitled to similar benefit. Therefore, this writ petition is disposed of directing the respondents to regularise the services of the petitioner for the period from 12.11.2008 to 15.11.2012 as a Primary School Headmaster with all monetary benefits. Out of



the said period, 4 years, 3 months and 4 days, the petitioner has worked in a sanctioned post for a period of **(*)4 years, 3 months and 5 days**. Therefore, he would be entitled to regularisation for the said period of **(*)4 years, 3 months and 5 days** with monetary benefits **at the School namely T.D.T.A Primary School, at Melamadathur and T.D.T.A Primary and Middle School, Arunachalapuram, Tirunelveli District**. For the remaining period of 5 months and 15 days, the petitioner would be entitled to regularisation without monetary benefits. Such exercise shall be completed by the second respondent within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(Records)

**(*)CORRECTED AS PER THE ORDER OF
THIS COURT DATED 12/6/2017 MADE
IN WP(MD)No.3979/2015**

/True Copy/

Sub Assistant Registrar

To

(*)TO BE SUBSTITUTED TO THE ORDER ALREADY DESPATCHED ON 5/4/2017

- 1.The Director of Elementary School Education,
DPI compound, Chennai.
- 2.The District Elementary Educational Officer,
Tirunelveli-2.
- 3.The Assistant Elementary Educational Officer,
Kezhapavoor Range,
Tirunelveli District.
- 4.The Additional Assistant Elementary Educational Officer,
Sankarankovil,
Tirunelveli District.
- 5.The Additional Assistant Elementary Educational Officer,
Kurvikulam Range,
Tirunelveli District.

+1cc to M/s. S.CHELLAPANDIAN Advocate in SR. No.15312

+1cc to SPECIAL GOVERNMENT PLEADER in SR. No.15526

SMS

JS/MR/3/04/2017/4P-8C

RL/8C/4P/MR/SAR1/19/6/2017