



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE T. RAJA

W.P. (MD) No. 15608 of 2017

and

WMP (MD) Nos. 12341 & 12342 of 2017

P. Raja

... Petitioner

Vs.

1. The Secretary,
Department of School Education,
State of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 9.
2. The Director of School Education,
DPI Campus, Chennai - 6.
3. The Chief Educational Officer,
Trichy.
4. The District Educational Officer,
Musiri, Trichy District.
5. The Secretary,
Swamy Viveganantha Vidyalyam
Higher Secondary School,
Vaichettipalayam - 621 012
Trichy District.

6. K. Venkateshan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the 4th respondent in his proceedings in Na.Ka.No.989/A2/2017, dated 16.08.2017 and quash the same as illegal.

For Petitioner : Mr. R. Manimaran

For R1 to R4 : Mr. R. Karthikeyan
Additional Government Pleader



ORDER

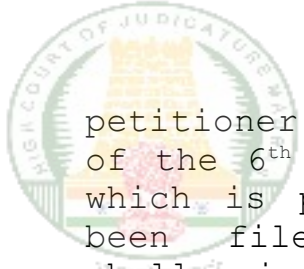
By consent, the writ petition itself is taken up for final disposal at the stage of admission itself.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader, who takes notice for the respondents 1 to 4.

3. The present Writ Petition is directed against the impugned order, dated 16.08.2017 passed by the fourth respondent/the District Educational Officer, Musiri, Trichy District.

4. It is the case of the petitioner that when the petitioner was appointed as a Record Clerk on 16.12.2010 in the fifth respondent School in a sanctioned post, the same was approved. While so, one Ravichandran, who was working as a Junior Assistant, attained the age of superannuation allowed to retire from service on 31.03.2014 and one Mr.Pannirselvam, who was also working as a Library Clerk attained the age of superannuation on 30.06.2014, was allowed to retire. While so, without considering the case of the petitioner to fill up the post of Library Clerk, all of a sudden, one Sampathkumar was appointed as a Library Clerk on 07.01.2015 without following Rule 15(4) of the Tamil Nadu Private Schools (Regulation) Rules, 1974. Subsequently, the petitioner sent an application to the Chief Educational Officer on 13.04.2016 for promotion to the post of Junior Assistant. Since the 5th respondent has not considered the application of the petitioner, the petitioner came before this Court by filing W.P.No.24261/2016 and this Court directed the 5th respondent to consider the application of the petitioner. However, the 5th respondent has rejected the application and appointed one Sampathkumar as Junior Assistant vide order dated 02.02.2017. Challenging the said appointment, the petitioner again came to this Court by filing W.P.(MD) No.2055/2017, in which, an interim order was passed and the said writ petition is still pending.

4.1. In the meanwhile, Sampathkumar approached this Court by filing a writ petition WP(MD) No.10965/2017 to direct the respondents to approve his appointment as Junior Assistant and an order was passed by this Court on 19.06.2017. Thereafter, against the order made in W.P.(MD) No.10965/2016, the petitioner filed a writ appeal before this Court and an order of stay has been granted. However, challenging the rejection order of approval for the 6th respondent, the 6th respondent has filed W.P.(MD) No.450/2017 and this Court directed the 4th respondent to consider the said approval. However, the petitioner herein filed writ petition to grant leave, which was rejected by this Court on 20.04.2017, since the petitioner has not challenged the order of appointment of the 6th respondent. Therefore, the



petitioner herein once again challenged the order of appointment of the 6th respondent before this Court in W.P.(MD) No.8440/2017, which is pending. Subsequently, yet another Writ Petition has been filed by the petitioner in W.P.(MD) No.15481/2017, challenging the order passed by the 4th respondent, which become infructuous, in view of the subsequent order of the 4th respondent, which is impugned herein in the present writ petition.

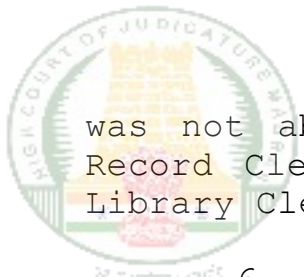
5. This Court is unable to find any merit in the Writ Petition for the following four reasons:-

(i) Firstly, the order of appointment of the sixth respondent to the post of Library Clerk was approved by the fourth respondent, District Educational Officer, Musiri, Trichy District. Subsequently, by virtue of the order passed by this Court in W.P.(MD)No.450 of 2017, vide order, dated 10.01.2017 directing the District Educational Officer, Musiri, Trichy District/ 3rd respondent therein to accord approval of his appointment with effect from 07.01.2015 with all monetary and other service benefits, the appointment of the sixth respondent was approved by proceedings dated 20.07.2017 and 16.08.2017. Even before passing the said proceedings dated 20.07.2017 and 16.08.2017, the 6th respondent came to this Court with a Contempt Petition No.742/2017. Therefore, this Court is not in a position to accept the case of the petitioner, inasmuch as the order of approval granted by the third respondent vide orders dated 20.07.2017 and 16.08.2017, the Writ petitioner cannot have any grievance.

(ii) Secondly, the direction issued by this Court in the said Writ Petition No.450 of 2017, dated 10.01.2017 was also challenged by filing W.A.(MD)SR No.5731 of 2017, seeking leave to file a Writ Appeal, as the petitioner herein was not a party before the learned Single Judge in W.P.(MD) No.450/2017 and this Court by order dated 07.02.2017 finding fault with the petitioner that the original order of appointment dated 07.01.2015 was not questioned, rejected the prayer for leave to challenge the order passed by the learned Single Judge in W.P.(MD)No.450 of 2017. However, liberty was given to the petitioner to workout his remedy by filing a separate Writ Petition. Therefore, I do not know how the petitioner has again come to this Court.

(iii) Thirdly, the learned counsel appearing for the petitioner again submitted that now he has challenged the order of appointment of the sixth respondent, dated 07.01.2015 in W.P.(MD) No.8440 of 2017. As the said writ petition is also pending, this Court is unable to find any merit in the present Writ Petition.

<https://hcservices.ecourts.gov.in/hcservices> Firstly, the petitioner has miserably failed to establish before this Court that on what basis the petitioner is entitled to get promotion to the post of Library Clerk, when, he



was not able to explain before this Court whether the post of Record Clerk is the feeder category to the promotional post of Library Clerk.

6. For all these reasons, this Writ Petition fails and the same is dismissed. Consequently connected Miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Department of School Education,
State of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 9.
2. The Director of School Education,
DPI Campus, Chennai - 6.
3. The Chief Educational Officer,
Trichy.
4. The District Educational Officer,
Musiri, Trichy District.

+ 1 cc TO Mr.R.Manimaran , Advocate in SR No. 73428
+1cc to The Special Government Pleader in SR.No.73874

RR
AE/KP/SAR4/02.11.2017/4P/7C

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