



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 27.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A(MD)No.839 of 2011

S.Krishnasamy

... Appellant

Vs.

1.Director of School Education,
Chennai-6.

2.Chief Educational Officer,
Tirunelveli.

3.District Educational Officer,
Tirunelveli.

4.36 Grama Senai Thalaivar Higher
Secondary School, Vadakku Radha Road,
Sankarankovil, Tirunelveli District.
Rep.by its Secretary.

... Respondents

Prayer : This Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order passed in W.P(MD).No.1905 of 2007 dated 14.02.2008 in so far as the denial of approval with effect from the date of appointment ie., 05.10.1998 and allow the present writ appeal.

Prayer in WP(MD). 1905/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus, calling for the records relating to the order passed by the first respondent Moo.Moo.127822/D1 (3)05, dated 31.1.2006 and quash the same, and direct the respondents to approve the petitioner s appointment in the cadre of Junior Assistant with effect from the date of appointment viz., 5.10.98 in the fourth respondent school and consequently direct the respondents to pay salary, with all consequential benefits.

For Appellant : Mr.V.Panner Selvam

For Respondents : Mr.T.S.Md.Mohideen for RR1 to 3.

J U D G M E N T

(Judgment of the Court was made by G.R.SWAMINATHAN, J.)

This writ appeal arises out of the order dated 14.02.2008 made in WP(MD).No.1905 of 2007 filed by the appellant herein.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The post of Junior Assistant fell vacant in the fourth



respondent school on 26.09.1997 following the promotion given to the then incumbent as Secondary Grade Teacher. The writ petitioner was appointed as Junior Assistant on 05.10.1998. It appears that the said Arumugam had not completed Child Psychology Training and as a result there were issues regarding approving his appointment as Secondary Grade Teacher. In the meanwhile, the ban of recruitment came into force in the year 2001. The authorities took the stand that since promotion of Arumugam as Secondary Grade Teacher was approved only on 02.06.2003, it would be considered that the post of Junior Assistant became vacant only from 02.06.2003 and that therefore it is not possible to approve the appointment of the writ petitioner as Junior Assistant from 05.10.1998. Therefore, the appellant herein was constrained to file WP(MD).No.1905 of 2007. The learned single Judge sustained the reasoning of the authorities and disposed of the writ petitioner with direction to the first respondent to approve the appellant's appointment as Junior Assistant in the fourth respondent school with effect from 02.06.2003. Aggrieved by the same, this writ appeal has been filed.

3.It is not in dispute that the school had a sanctioned post of Junior Assistant and also a sanctioned post of Secondary Grade Teacher. The said Arumugam was promoted as Secondary Grade Teacher. A vacancy arose in the post of Junior Assistant. On 05.10.1998, the writ petitioner was appointed in the said vacancy and he continued to work as Junior Assistant. Therefore, denial of approval in the cadre of Junior Assistant with effect from the date of his appointment ie., 05.10.1998 can only be said to be unfair. When the appellant had rendered service since 05.10.1998, it is not proper to postpone the approval to the year 2003. Admittedly, Arumugam was also promoted only to a sanctioned vacancy in the post of Secondary Grade Teacher. Merely because his promotion got locked on some issues, the same cannot be permitted to cast a shadow on the writ petitioner's appointment.

4.We therefore set aside the order dated 14.02.2008 in WP(MD).No.1905 of 2007 and allow this writ appeal and direct the first respondent to approve the appointment of the writ petitioner as Junior Assistant in the fourth respondent school with effect from 05.10.1998 with all monetary and consequential benefits. The said exercise shall be completed by the first respondent within a period of eight weeks from the date of receipt of a copy of this order. This writ appeal is allowed. No costs.

Sd/-
Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar



1. Director of School Education,
Chennai-6.

2. Chief Educational Officer,
Tirunelveli.

3. District Educational Officer,
Tirunelveli.

+1cc to M/S.V.Panner Selvam, Advocate SR.No. 68617

+1cc to Special Government Pleader, SR.No. 69003

W.A(MD) No.839 of 2011

skm/Arul

JM/SKN RSK/SAR 4/10.08.2017/3P/6C