



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. (MD) No.450 of 2013
and
M.P. (MD) No.2 of 2013

E.Raman

... Appellant/Petitioner

-vs-

- 1.The Director of Elementary Education
Directorate of Elementary Education Office
College Road, Chennai-6
- 2.The Secretary to Government
School Education Department
Secretariat, Chennai-8
- 3.The District Elementary Educational Officer
District Elementary Educational Office
Tirunelveli, Tirunelveli District
- 4.The Additional Elementary Educational Officer
Tenkasi-627 811
Tirunelveli District
- 5.The Management and Correspondent
Arambjothi Middle School
Mela Ilanji, Tenkasi Taluk
Tirunelveli District

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 29.02.2012, made in W.P.(MD) No.1576 of 2011, on the file of this Court.

Prayer in WP(MD)No. (MD) .1576/2011:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARI MANDAMUS, calling for the records pertaining to the order of the 3rd Respondent in his Na.Ka.No.2484/A1/05 dated 29-10-2010 and quash the same as illegal, contrary to law and direction of this Honourable Court and consequence thereof pass an order direct the 3rd Respondent to regularize the appointment of Petitioner by 5th



Respondent as Full Time Craft Instructor on 02-06-2002 and pay all arrears of remuneration due to the Petitioner.

For Appellant : Mr.D.Selvanayagam

For Respondents : Mr.V.Muruganantham
Addl. Govt. Pleader

J U D G M E N T

[Judgment of the Court by T.S.SIVAGNANAM, J.]

Heard Mr.D.Selvanayagam, learned counsel appearing for the appellant / writ petitioner and Mr.V.Muruganantham, learned Additional Government Pleader appearing for the respondents / respondents and perused the materials produced.

2. This writ appeal is directed against the order, dated 29.02.2012, made in W.P.(MD) No.1576 of 2011.

3. The appellant / writ petitioner sought for issuance of a writ of certiorarified mandamus to quash the order, dated 29.10.2010, passed by the third respondent and to direct the third respondent to regularize the appointment of the petitioner by the fifth respondent as a Full-Time Craft Instructor and to pay all arrears of remuneration due to him.

4. The fifth respondent School is a Minority Aided Institution. The appellant / petitioner's claim is that the post of Craft Teacher was sanctioned to the fifth respondent School by the third respondent, vide proceedings, dated 31.10.2003 and after the demise of the earlier incumbent, who was working in the said post, the appellant / writ petitioner was accommodated in the said post. Therefore, his appointment is entitled to be approved and he is entitled for payment of salary etc. The learned Single Judge, taking note of the fact that there is no sanction for the post of Craft Instructor, in the fifth respondent School, dismissed the writ petition. Aggrieved by the said order of dismissal, the writ petitioner has preferred this writ appeal.

5. The learned counsel appearing for the appellant / writ petitioner made elaborate submissions on the factual aspects and invited the attention of this Court to the proceedings of the third respondent, dated 31.10.2003, and submitted that by virtue of the said proceedings, it is clear that one post of Full-Time Craft Teacher has been sanctioned to the fifth respondent School and therefore, the appellant / petitioner's appointment in the said post is entitled to be approved and he is entitled for



6. The learned counsel further submitted that in the proceedings of the third respondent, dated 31.10.2003, there is a reference to the earlier order, dated 21.04.1997, which shows that the said post has been sanctioned. Further, the learned counsel submitted that earlier, the appellant / petitioner filed a writ petition, in W.P.No.1870 of 2005, for a direction upon the official respondents to approve his appointment as a Craft Instructor (Agriculture) in the fifth respondent School and to direct the official respondents to sanction salary for the said post with effect from 02.06.2002.

7. In fact, the second limb of the prayer sought for in the present writ petition, as against which this appeal has been preferred, is identical to that of the prayer sought for in the earlier writ petition in W.P.No.1870 of 2005. The said writ petition was disposed of, on 21.04.2005, directing the official respondents to consider the request made by the fifth respondent School with regard to the appointment of the appellant / petitioner, on 02.06.2002, as a Full-Time Craft Instructor (Agriculture) and for grant of aid.

8. Thereafter, the appellant / petitioner filed a contempt petition in Cont.P.No.191 of 2005, contending that there is a willful disobedience of the orders and directions issued by this Court in W.P.(MD) No.1870 of 2005. The said contempt petition was disposed of by order, dated 15.07.2009, by issuing the following directions:

"10. The proceedings of the District Elementary Educational Officer, Tirunelveli District, dated 31.10.2003, addressed to the school would indicate that a post of full time Craft Instructor has been sanctioned for a period from 01.06.2002 to 31.05.2005 for 6th standard and it has also been mentioned that for 7th and 8th standards, there will not be any grant. It is clear from the said proceedings that the students' strength in respect of 6th standard alone has been taken into consideration and in that event, the petitioner's school is entitled to have a full time Craft Teacher. However, this court taking into consideration the fact that the petitioner is working in Arambajothi Middle School, Ilanji for about 7 years, with effect from 02.06.2002 and without receiving any salary, deems fit and proper to direct the respondents to consider the transfer of post of Craft Instructor (Agriculture) along with the teacher, to some other needy school and accommodate the petitioner therein. This Court is inclined to pass such an

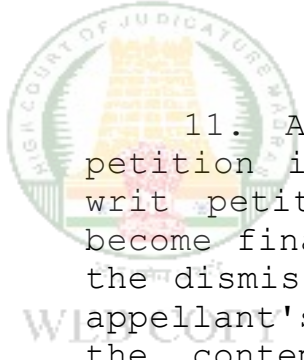


order in view of the peculiar circumstances of the case and taking into consideration the plight being undergone by the petitioner.

11. In the result, the Writ Petition as well as the Contempt Petition is disposed of directing the respondents to sympathetically consider the case of the petitioner and transfer the post of Craft Instructor (Agriculture) from Arambajothi Middle School along with the petitioner to any other needy school and pass appropriate order as expeditiously as possible. The respondents are also directed to sympathetically consider the request of the petitioner for payment of the salary during the period in which he rendered service. Consequently, miscellaneous petitions and sub application are closed. No costs."

9. The learned counsel appearing for the appellant / writ petitioner submitted that the above directions issued in the contempt petition have not been complied with by the official respondents till date.

10. In the above factual background, it has to be seen as to whether the fifth respondent School has been sanctioned the post of Full-Time Craft Instructor (Agriculture). The proceedings of the third respondent, dated 21.04.1997, shows that the post of Full-Time Instructor (Agriculture) was originally sanctioned in Govindaperi Gnanam Marava Middle School and one Mr. Nazeer Ahamed Ibrahim was working as a Craft Teacher in the said School in the said post. The post of Full-Time Craft Teacher had become surplus and therefore, the Government had resumed the said post from the said Govindaperi Gnanam Marava Middle School. Considering the fact that an incumbent was working at that point of time, the third respondent directed the fifth respondent School to accommodate the said incumbent and thereafter, the post was transferred to the fifth respondent School. Thus, it is clear that there is no sanction in respect of the post of Full-Time Craft Teacher for the fifth respondent School. Taking into consideration the students strength and the proceedings, dated 21.04.1997, an interim arrangement appear to have been made to accommodate the said Mr. Nazeer Ahamed Ibrahim. The said teacher subsequently died. On his demise, the post ought to automatically revert back to Department pool. But, the fifth respondent School appointed the appellant / writ petitioner in the said post. When there is no dispute that the post was not sanctioned to the fifth respondent School, the question of appointing a fresh incumbent in the post occupied by the said Nazeer Ahamed Ibrahim pursuant to the interim arrangement is not permissible. Thus, the learned



11. As noticed above, the orders passed in the contempt petition in Cont.P.No.191 of 2005, which had arisen out of the writ petition filed by the appellant / writ petitioner, have become final and binding on the Educational Authorities, therefore the dismissal of this appeal will not in any manner prejudice the appellant's rights to pursue the relief granted in his favour in the contempt petition vide order dated 15.07.2009.

12. The writ appeal is dismissed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(AD II)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Director of Elementary Education,
Directorate of Elementary Education Office,
College Road, Chennai-6.
 - 2.The Secretary to Government,
School Education Department,
Secretariat, Chennai-8.
 - 3.The District Elementary Educational Officer,
District Elementary Educational Office,
Tirunelveli, Tirunelveli District.
 - 4.The Additional Elementary Educational Officer,
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Tirunelveli District.
 - 5.The Management and Correspondent,
Arambjothi Middle School,
Mela Ilanji, Tenkasi Taluk,
Tirunelveli District.
- +1cc to M/S THE SPECIAL GOVERNMENT PLEADER, SR.NO. 16636
+1cc to M/S.K.SEEMARAJ,ADVOCATE,SR.16384

W.A. (MD) No.450 of 2013
and
M.P. (MD) No.2 of 2013
21.03.2017

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