

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 11.6.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.Nos.196 and 197 of 2018
and
C.M.P.Nos.1445 & 1446 of 2018

K.Srinivasan ...Appellant in both cases/Petitioner

Versus

1 The Joint Director (Higher Secondary)
DPI Campus College Road
Chennai 600 006.

2 The District Educational Officer
Chengleput District

3 The Secretary,
Adambakkam Janobakara Sasvadha
Nidhi Higher Secondary School
Alandur Chennai 600 016

..Respondents in both writ appeals
/Respondent

4 S. Damodharan ..R4 in WA 197/2018 alone

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 4.12.2017 passed in W.P.Nos.38813 of 2015 and 20214 of 2016 on the file of this court.

Prayer in W.P.Nos.38813 of 2015 Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the Second respondent herein in O.M.No.2159/A2/2014, dated 31/07/2014 and the Consequential order of the first respondent rejecting the appeal against the said order vide order in 32567/W5/E2/2015, dated 16/11/2015 and quash the same and consequently direct the respondent to approve the appointment of the petitioner as Higher Secondary Head Master to the third respondent school with effect from 02/06/2014.

Prayer in W.P.No.20214 of 2016 Writ Petition filed under Article 226 of the Constitution of India, Praying for issuance of a Writ of Mandamus, directing the third respondent herein not to interfere with the functioning of the petitioner in the post of Head Master Higher Secondary School.

For appellant : Ms.Dakshayani Reddy
For RR1 and 2 : Mr.C.Munusamy,
Special Government Pleader

For R3 : No appearance.

For R4 : Mr.T.Chellapandian

COMMON JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The writ appeals are filed by the writ petitioner questioning the correctness of the order passed by the learned Single Judge in dismissing the writ petitions filed by the appellant.

3. It appears that the appellant/writ petitioner had joined the third respondent School on 13.7.1989 as Physical Director Grade I and during his tenure in such post, he had completed M.A. Economics, M.A. Political Science and also B.Ed. Degree in the year 2012 and subsequently, he was promoted as Headmaster on 31.5.2014, which he took charge on 2.6.2014, however, the same was declined to be approved by the second respondent vide order dated 31.7.2014 on the ground that the appellant had not possessed of necessary qualification as stipulated under the Tamil Nadu Private Schools (Regulations) Rules, 1974 and the appeal filed by the appellant as against such order was also rejected by the first respondent vide order dated 16.11.2015 which was challenged in one of the writ petitions and apprehending that due to the pressure given by the fourth respondent a P.G. Assistant, the Management may relieve the appellant, he had come up with another writ petition seeking injunction not to relieve him from the post of Headmaster. According to the appellant, he is the senior most in the Institution and therefore, he is entitled to be promoted as Headmaster considering the post of Physical Director Grade I as P.G.Assistant.

4. In this regard, it is brought to our notice the amendment to Special Rules for the Tamil Nadu Higher Secondary Educational Service brought by way of G.O. (Ms) No.94 School Education (HS2) Department dated 22.6.2006. Clause (iii)(b) of the said provision reads thus:-

"in the case of Physical Directors/Directors, experience for a period of not less than ten years after acquiring B.T. or B.Ed. qualification."

In the case of DEVASAHAYAM, S. v. JOINT DIRECTOR (2004 (1) CTC 388), the Apex Court has held thus:-

"In order to find out whether the view taken by the High Court and the Tribunal is erroneous, it is necessary to examine the matter with reference to the relevant rules. Rule 15(4)(1)(d) provides that the post of Head Master could be filled up only amongst the categories stated therein and they are from the category of (1) Head Masters of High Schools; (2) Post Graduate Assistants in academic subjects; (3) Post Graduate Assistants in languages provided that they possess the prescribed qualifications. It cannot be seriously disputed that the appellant is not a Post Graduate Assistant and he does not come under the feeder category. Merely because he possesses the necessary qualification by itself will not enable him to claim to be appointed as a Head Master."

5. It appears that the appellant out of own interest, might have indulged in teaching general subjects apart from Physical Education from the inception. However, when the appellant is not able to authentically demonstrate the same and he had not completed 10 years of teaching experience on completion of the prescribed educational qualification viz., B.Ed. in the year 2012, the appellant has no case. Therefore, we do not find any reason to interfere with the order passed by the learned Single Judge and the order passed by the Department. However, we make it clear that on completion of 10 years of experience from the date of completion of the prescribed qualification by the appellant, if any vacancy arises, and there is no other person senior to him for the same, the case of the appellant be considered to be appointed as Headmaster. With the above observation, the writ appeals are disposed of. No costs. The connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS IV)

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Sub Assistant Registrar

ssk.

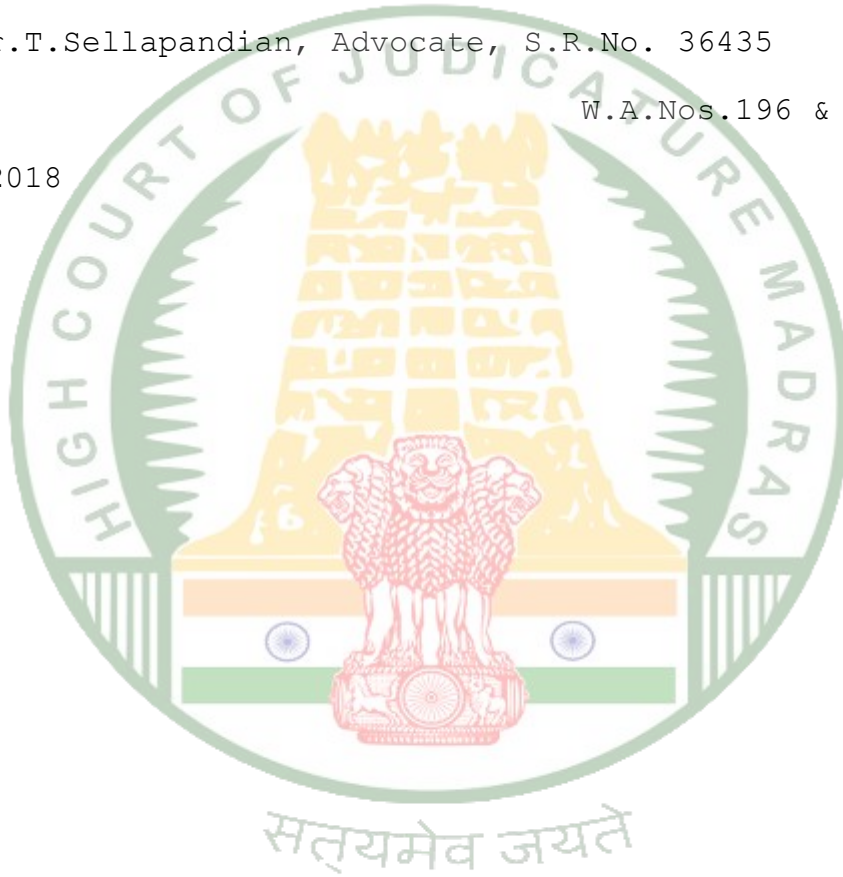
To:

- 1 The Joint Director (Higher Secondary)
DPI Campus College Road
Chennai 600 006.
- 2 The District Educational Officer
Chengleput District

+lcc to Mr.T.Sellapandian, Advocate, S.R.No. 36435

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GJ-II(CO)
BM 12/07/2018



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