

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.01.2018

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN
W.P.Nos.808 and 809 / 2013 &
M.P.No.2 of 2013

1.C.Ravivarman ... Petitioner in WP-808/2013
2.M.Nagalingam ... Petitioner in WP-809/2013

/Vs/

1.The Government of Tamil Nadu,
Represented by its Secretary,
Education Department,
Fort St. George,
Chennai - 600 009.

2.The Director of School Education,
College Road, Nungambakkam,
Chennai - 600 006.

3.The Chief Education Officer,
Vellore District,
Vellore.

4.The District Educational Officer,
Tirupathur, Vellore.

5.The Head Master,
Government Boys Higher Secondary School,
Anaikkattu, Vellore District,
Pin - 635 852.

... Respondents 1 to 5 in both Petitions

6.M.Rajesh 6th Respondent in WP.808/13

7.K.Durai 6th Respondent in WP.809/13

Prayer in W.P.No.808 of 2013:

Writ Petition filed under Article 227 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 5th respondent in his proceedings Na.Ka.No.158/2013, dated 01.01.2013 and quash the same.

Prayer in W.P.No.809 of 2013:

Writ Petition filed under Article 227 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 5th respondent in his proceedings Na.Ka.No.205/2012, dated 31.12.2012 and quash the same.

For Petitioner : M/sJ.Muthukumaran
[in both WPs]

For RR 1 to 4 : Mr.R.Govindasamy
[in both WPs] Special Government Pleader

For R-5 : M/s V. Raghavachari
[in WP.808/2013]

* * *

COMMON ORDER

These writ petitions were preferred by the petitioners against the impugned order passed by the Headmaster, Government Boys Higher Secondary School, Natrampalli /5th respondent in his proceeding Na.Ka.No.158 of 2013 dated 1.1.2013 to quash the same.

2.Brief case of the petitioner:

The facts of the case is that the petitioner is working as Assistant Headmaster in the Government Boys Higher Secondary School, Natrampalli, Vellore District and originally appointed as Vocational Teacher from 2.1.1986 from the 5th respondent school. The petitioners have finished his diploma in Mechanical Engineer and thereafter completed Master of Arts and Master of Education Graduate Degrees and regularized from 16.10.1992 onwards. As per the G.O.Ms.No.731, Education Department dated 28.4.1981, the 1st respondent passed orders to the effect that the full time vocational teachers who are drawing B.T. scale of pay and possessing the degree in teaching are eligible for nomination as Assistant Headmaster in the respective high schools. Based on the above orders the petitioner was appointed as Assistant Headmaster by the 5th respondent by his proceeding in Na.Ka.No.123/2011 dated 1.11.2011 in the Government Boys Higher Secondary School, Natrampalli as petitioner is the senior most teacher in graduate teachers scale of pay and drawing graduate teacher scale of pay. Suddenly the 5th respondent by his proceeding in na.Ka.No.158 of 2013 dated 1.1.2013 appointed one M.Rajeesan who is the 6th respondent as Assistant Headmaster in the place of petitioner without any prior notice or any prior intimation and without any valid reason. The 6th respondent is a junior to the petitioner and as subsequently joined the service on 18.7.2001, whereas the petitioner was working as vocational teacher from 2.1.1986. The impugned order dated 1.1.2013 is the instruction of District Chief Educational Officer, dated 31.12.2012. The order itself shows is colourable exercise of power by the 3rd respondent and the subjudious of the

5th respondent in the above said illegal order which is arbitrary and in violation of natural justice.

3.Counter objection by 3rd respondent

The petitioner is working as vocational instructor, Government Boys higher secondary school Anaicut, His service was regularized with effect 16.10.1992, the petitioner is a diploma holder in Electrical and Communication Engineering.

4.G.O.Ms.No.731 Education Department, dated 28.4.1981 the 1st respondent passed orders that the full time vocational teachers drafted from the erstwhile bifurcated course which was existed before 1978 and drawing B.T. scale and possessing a degree in teaching may be considered eligible nomination as Assistant Headmaster. In this instant case the petitioner was appointed as a vocational instructor after the introduction of higher secondary course in 1978. The petitioner was not worked in the bifurcated course and he has not possessed any training qualification prescribed in the above said G.O.

5.The G.O.Ms.No.731 Education Department dated 28.4.1981 the duties and responsibilities of the Assistant Headmaster is prescribed as that the assistant headmaster would assist with headmaster in teaching and learning activities of the concerned classes that is 9th and 10th standards. Even though the vocational teachers drawing the pay of B.T. Assistant Teachers, they are handling only higher secondary vocational courses. Hence they do not even have any exposure on 9th and 10th syllabi. So the claim of the petitioner is arbitrary and in violation of natural justice. Further the petitioner may not be considered as a Senior B.T. Assistant Teacher as because of that he draws the B.T scale.

6.In G.O.Ms.No.731, Education Department dated 28.4.1981 the eligibility factor and duties and responsibilities of an Assistant headmaster are clearly laid down. The petitioner is not eligible for Assistant Headmaster. Hence there is no need for any enquiry before the removal. The 5th respondent has been empowered to nominate a eligible person based on the qualification and seniority prescribed in the above said G.O.

7.The order of the 5th respondent is accordance with G.O.Ms.No.731 Educational Department dated 28.4.1981. As per this G.O. the petitioner is not eligible for Assistant Headmaster. Hence the question of seniority does not arise.

8.In G.O.Ms.No.731 Education Department dated 28.4.1981 the qualification for the Assistant Headmaster is clearly prescribed that the individual should possess any degree in teaching. The petitioner does not possess any degree in teaching hence he is not eligible for Assistant Headmaster.

9.The learned counsel for the petitioner submits that the impugned order of the 5th respondent is liable to be set aside, in view of the fact that the impugned order was passed by influence of the 3rd respondent as higher authority to the 5th respondent has passed the same in colourable exercise of power.

10.The learned counsel for the petitioner submits that the impugned order of the 5th respondent is liable to be set aside on the ground of principles of natural justice are not valid in passing the said impugned order without giving proper reason for removing the petitioner from the post of Assistant Headmaster and for hastily appointment of the 6th respondent in the place of the petitioner.

11.The learned Special Government Pleader appearing for the respondents 1 to 4 opposed the contentions of the petitioner/accused and sought for dismissal of the writ petition.

W.P.No 809 of 2013

12.This writ petition were preferred by the petitioner against the impugned order passed by the Headmaster, Govt. Boys Higher Secondary School, Annaikattu, Vellore District /5th respondent in his proceeding Na.Ka.No.205 of 2012 dated 31.12.2012 to quash the same.

13.Brief case of the petitioner:

The facts of the case is that the petitioner is working as Assistant Headmaster in the Government Boys Higher Secondary School, Annaikattu, Vellore District and

originally appointed as Vocational Teacher from the 5th respondent school. Petitioner have finished his diploma in Mechanical Engineer and thereafter completed Master of Arts and Master of Education Graduate Degrees and regularized from 16.10.1992 onwards. G.O.Ms.No.731, Education Department dated 28.4.1981, the 1st respondent passed orders the full time vocational teachers who are drawing B.T. scale of pay and possessing the degree in teaching are eligible for nomination as Assistant Headmaster in the respective high schools. Based on the above orders petitioner was appointed as Assistant Headmaster by the 5th respondent by his proceeding in Na.Ka.No. 25 of 2012 dated 27.2.2012 in the Government Boys Higher Secondary School, petitioner is the senior most teacher in graduate teachers scale of pay and drawing graduate teacher scale of pay. Suddenly the 5th respondent by his proceeding in na.Ka.No.205 of 2012 dated 31.12.2012 appointed one K.Durai who is the 6th respondent as Assistant Headmaster in the place of petitioner without any prior notice or any prior intimation and without any valid reason. The 6th respondent is a junior to the petitioner and as subsequently joined the service on 8.10.1999, whereas petitioner working as vocational teacher from 1986. The impugned order dated 31.12.2012 is the instruction of District Chief Educational Officer, The order itself shows is colourable exercise of power by the 3rd respondent and the subjugation of the 5th respondent in the above said illegal order which is arbitrary and in violation of natural justice.

14.Counter objections by the respondents 1 to 4

The orders issued in G.O.Ms.No.887, Education, Dated 5.6.1979 and G.O.Ms.No.731, Education dated 28.4.1981 in the proceedings of the 5th respondent, the senior most B.T.Assistant (Tamil) of the Government Higher Secondary School, appointed as Assistant Headmaster of the High School wing with effect from 1.1.2013. The government in G.O.Ms.No.887, Education, dated 5.6.79 have issued orders that in the High schools/higher secondary schools which include high school classes also, with a pupil strength of 750 or more, the senior most Graduate or post graduate assistant of Tamil Pandit Grade I or Physical Director getting B.T. scale of pay available in the concerned High/Higher secondary school might be nominated as Assistant Headmaster and special pay might be paid to him.

15.The Secretarial Assistants, Agricultural instructors of the erstwhile bifurcated courses and

working as vocational instructors who are also getting the BT. Scale of pay may also be made eligible to be nominated as Assistant Headmaster in the respective schools. The government have examined the above representations and inter-alia passed orders in G.O.Ms.No.731, Education department, dated 28.4.1981 to the effect that the full time vocational teachers drafted from the erstwhile bifurcated courses who are drawing B.T.Scale of pay and possessing a degree in teaching may be considered eligible for nomination as Assistant Headmaster as per the norms prescribed in G.O.Ms.No.887, Education, dated 5.6.1979.

16.The petitioner has passed Diploma in Electrical and Communication Engineering in 1987 and subsequently passed degree in master of arts. The petitioner has not possessed degree in teaching as required in G.O.Ms.No.731, Education dated 28.4.1981 for considering him for nomination as Assistant Headmaster in the concerned school, whereas the 6th respondent has acquired B.Lit. in 1986 B.Ed., in 1987 and M.A. in 2000.

17.The petitioner request was that he should be nominated as Assistant Headmaster in the High school classes whereas he is teaching in higher secondary classes by virtue of his acquired diploma in DECE in 1987 without a degree in teaching. The petitioner has not taught the students of high school classes. The 6th respondent who is in possession of degree in teaching the students of high school classes. He satisfied the requirements for nomination as Assistant Headmaster in the high school/higher secondary school which include high school classes also.

18.The learned counsel for the petitioner submits that the impugned order of the 5th respondent is liable to be set aside, in view of the fact that the impugned order was passed by influence of the 3rd respondent as higher authority to the 5th respondent has passed the same in colourable exercise of power.

19.The learned counsel for the petitioner submits that the impugned order of the 5th respondent is liable to be set aside the principle of natural justice are valid by the 5th respondent in passing the said impugned order without giving proper reason for removing the petitioner from the post of Assistant Headmaster and for hastily appointment of the 6th respondent in the place of the petitioner.

20.The learned Special Government Pleader appearing for the respondents 1 to 4 opposed the contentions and sought for dismissal of the writ petition.

21.As per the G.O.s which prescribed the qualification, the petitioners in both the writ petition are not having the requisite qualification. Thus being the case, the petitioners have no right to claim the post of Assistant Headmaster in the Schools. It is also not necessary to pass this impugned orders after giving personal opportunity to the petitioners.

22.In both the writ petitions, the respondents have filed their counter in detail which clearly shows that both the writ petitioners are not eligible for their promotional appointment, since both the petitioners are not having the requisite qualifications. The Government Orders filed by the respondents Department very clearly proved that these petitioners are having the qualification. Therefore, both the writ petitioners are not made out their cases before this Court and hence, both the writ petitions are liable to be dismissed.

23.In the result, both the writ petitions are dismissed, by confirming the order passed by the 5th respondent in Na.Ka.No.158/2013 dated 01.01.2013 and Na.Ka.No.205/2013 dated 31.12.2012. No costs. Consequently, connected M.P.No.2 of 2013 is closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

vs
To

1.The Government of Tamil Nadu,
Represented by its Secretary,
Education Department, Fort St. George,
Chennai - 600 009.

2.The Director of School Education,
College Road, Nungambakkam,
Chennai - 600 006.

3.The Chief Education Officer,
Vellore District, Vellore.

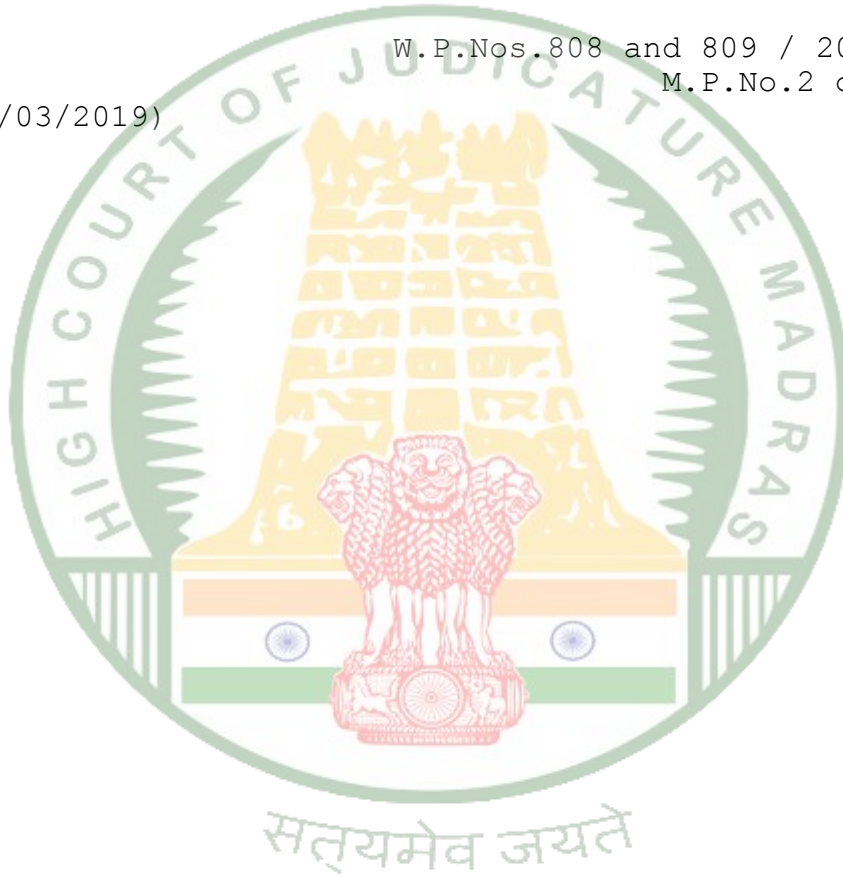
4.The District Educational Officer,
Tirupathur, Vellore.

5.The Head Master,
Government Boys Higher Secondary School,
Anaikkattu, Vellore District,
Pin - 635 852.

+1cc to Mr.V. Raghavachari, Advocate SR.No. 7066

W.P.Nos.808 and 809 / 2013 and
M.P.No.2 of 2013

A.SK(20/03/2019)



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