

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2018

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Writ Appeal No.1534 of 2013

Shanmuga Sundarraaj

...Appellant

Vs.

1.The Director of Education
Higher Secondary Education
College Road, Chennai - 600 006.

2.The Chief Educational Officer
Thanjavur.

3.The District Educational Officer
Thanjavur.

4.Kalyanasundaram Higher Secondary School
Rep by its Secretary
Thanjavur - 613 009.

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent
against the order dated 12.07.2012 made in W.P.No.15662 of 2008.

PRAYER IN WP.15662 OF 2008:

Writ Petition filed Under Article 226 of the Constitution
of India praying to issue a writ of Mandamus *directing the 1st
respondent to grant permission to 4th respondent school to
appoint the petitioner as Physical Director Grade I either by
sanctioning a post or by upgrading the petitioners post*

For Appellant : Mr.C.Johnson

For Respondents : Mr.K.Karthikeyan
Government Advocate (Edn.)
(For R1 to R3)
Mr.Alaguraja (For R4)

WEB COPY

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

K.K.SASIDHARAN, J.

The appellant was originally appointed as a Physical Education Teacher. Subsequently, the post was upgraded as Physical Director Grade-II. The fourth respondent Institution is eligible for one post of Physical Education Director Grade-I in terms of G.O.Ms.No.525 (Education Department), dated 29 December 1997 and G.O.Ms.No.720 (Education Department), dated 28 April 1981. The appellant appears to have functioned as Physical Director Grade -I after the death of Thiru.Rengasamy, who was holding the post. Since action was not taken either to upgrade the post of Physical Director Grade-II as Physical Director Grade-I or to sanction the post, the appellant submitted series of representations. Since those representations were not considered, the appellant filed a writ petition in W.P.No.15662 of 2008. The learned Single Judge dismissed the writ petition taking into account the counter affidavit filed by the Department of Education. Feeling aggrieved, the appellant has come up with this intra court appeal.

2.The learned counsel for the appellant contended that there are sufficient students studying at the fourth respondent Institution justifying appointment of a Physical Director Grade-I. According to the learned counsel, the appellant has been working as Physical Director Grade-II. Since the post of Physical Director Grade-I was not sanctioned, there is stagnation.

3.We have also heard the learned Government Advocate on behalf of respondents 1 to 3.

4.The factual matrix indicates that the management has not so far approached the Government with an application for sanctioning the post of Physical Director Grade I. In case, such an application is given, the issue would be considered by the Government taking into account the strength of the students studying in the higher secondary course. We are informed that no such representation was given by the fourth respondent. It was only the appellant who took up the issue with the Government.

5. After hearing the learned counsel for the appellant and the learned Government Advocate on behalf of the respondents 1 to 3, we are of the view that interest of justice would be sub served by giving liberty to the fourth respondent to submit a comprehensive representation to the Director of School Education for sanctioning the post of Physical Director Grade-I taking into account the total strength and compliance of the relevant Government orders. In fact, the Director of School

Education, way back on 8 September 1999, called upon the management to submit certain particulars. The communication is found at Page 21 of the typed set of papers. It is not clear as to whether the management has submitted the required particulars. In any case now that we permit the fourth respondent to submit a representation for sanctioning the post, there is no need for a factual adjudication of the matter.

6. The respondents 1 to 3 are directed to consider the representation given by the fourth respondent and dispose of the same on merits and as per law. Such exercise shall be completed within a period of four months from the date of receipt of representation from the fourth respondent.

7. The writ appeal is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar (CS-viii)

//True Copy//

Sub Assistant Registrar

svki/maya

To

- 1.The Director of Education
Higher Secondary Education
College Road, Chennai - 600 006.
- 2.The Chief Educational Officer
Thanjavur.
- 3.The District Educational Officer
Thanjavur.

+1cc to the Government Pleader, S.R.No. 10293
+1cc to Mr.A.S.ALAGURAJA, Advocate, S.R.No.10020
+1cc to Mr.C.JOHNSON, Advocate, S.R.No. 9869

Writ Appeal No.1534 of 2013

SS(CO)
TR(01/03/2018)