

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.Nos.41365 and 41366 of 2016

T.Jayaprakasam

... Petitioner in both W.Ps.

Vs

1. The Chief Educational Officer,
Thiruvarur District,
Thiruvarur.
2. The District Educational Officer,
Thiruvarur District,
Thiruvarur.
3. The Correspondent,
Needamangalam Higher Secondary School,
Needamangalam,
Thiruvarur District.

4. P.Ramkumar ... Respondents in both W.Ps.

Prayer in W.P.No.41365/2016: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent to take appropriate legal action against the 4th respondent for not allowing the petitioner to sign B.T. Assistant Attendance Register and all other discrepancy committed, based on the representation submitted by the petitioner on 13.6.2014, 19.6.2014, 23.6.2014, 14.8.2014, 19.1.2015, 16.2.2015, 4.6.2015 and consequently, allow the petitioner to sign the Attendance Register meant for B.T. Assistant based on Promotion Order dated 20.03.2014 with all consequential benefits.

Prayer in W.P.No.41366/2016: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to approve the promotion of the petitioner to the post of B.T. Assistant (Tamil) from the date of promotion based on the proposal forwarded by the 3rd respondent in the Proceedings in Na.Ka.No.02/14-15 dated 10.5.2016 by taking into consideration of non-teaching staff

Attendance Register signed by the petitioner with an endorsement ''promoted as B.T. Assistant (Tamil)'' from the date of initial appointment with all consequential and other attendant benefits including arrears of salary within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents: Mr.K.Karthikeyan,
Government Advocate for R1 and R2
Mr.K.H.Ravikumar for R3
Mr.P.Ganesan for R4

C O M M O N O R D E R

The Writ Petition in W.P.No.41365/2016 has been filed seeking to issue a Writ of Mandamus, directing the 3rd respondent to take appropriate legal action against the 4th respondent for not allowing the petitioner to sign B.T. Assistant Attendance Register and all other discrepancies committed, based on the representations submitted by the petitioner on 13.6.2014, 19.6.2014, 23.6.2014, 14.8.2014, 19.1.2015, 16.2.2015, 4.6.2015 and consequently, allowing the petitioner to sign the Attendance Register meant for B.T. Assistant based on Promotion Order dated 20.03.2014 with all other benefits.

2. The Writ Petition in W.P.No.41366/2016 has been filed seeking to issue a Writ of Mandamus, directing the 2nd respondent to approve the promotion of the petitioner to the post of B.T. Assistant (Tamil) from the date of promotion based on the proposal forwarded by the 3rd respondent in the Proceedings in Na.Ka.No.02/14-15 dated 10.5.2016 by taking into consideration of non-teaching staff Attendance Register signed by the petitioner with an endorsement ''promoted as B.T. Assistant (Tamil)'' from the date of initial appointment with all consequential and other attendant benefits including arrears of salary within a time frame to be fixed by this Court.

3. Learned Counsel appearing for the petitioner submitted that the petitioner was originally appointed as Library Attendant on 23.10.2000 in the 3rd respondent School which is a Government Aided School. Subsequently, he was promoted as Lab Assistant in the 3rd respondent School and the same was duly approved by the Department. Subsequently, the petitioner acquired the qualification of B.Lit. Degree from Alagappa University in May, 2012 and also acquired the qualification of Tamil Pandit Training (TPT) from Tamil University in May, 2013 and thus, he became eligible for appointment to the post of B.T. Assistant (Tamil).

4. The learned Counsel for the petitioner further submitted that when a vacancy to the post of B.T. Assistant (Tamil) arose in the 3rd respondent school due to retirement of one Tmt.K.Thalthagai Yazhini on 31.5.2011, as per the Proceedings of the School Committee dated 20.3.2014, the petitioner was given appointment by promotion to the said post in the regular sanctioned vacancy on 20.3.2014.

5. The learned Counsel for the petitioner also submitted that on promotion to the post of B.T. Assistant (Tamil), the petitioner submitted a joining report to the 4th respondent, who was working as Headmaster in the 3rd respondent school on 20.3.2014. However, the 4th respondent, for the reasons best known to him, has not acknowledged the Joining Report. Hence, the petitioner was constrained to submit his joining report to the 3rd respondent, namely, the Correspondent, Needamangalam Higher Secondary School, Needamangalam, Thiruvavur District. Further, the 4th respondent has not allowed the petitioner to sign in the Master Attendance Register as B.T. Assistant (Tamil). Subsequently, at the intervention of the Correspondent of that school, the 4th respondent has permitted the petitioner to sign the Master Attendance Register as B.T. Assistant (Tamil) from 02.06.2014 to 09.06.2014 for a period of one week. Thereafter, the 4th respondent has again prevented the petitioner from signing the B.T. Assistant Attendance Register and included his name in the non-teaching staff Attendance Register with an endorsement against his name as "'promoted as B.T. Assistant'". Therefore, he was under the compulsion to sign only the non-teaching staff Attendance Register as directed by the 4th respondent. Finally, a representation was given to the 3rd respondent on 13.6.2014 followed by the representations dated 19.6.2014, 23.6.2014, 14.8.2014, 19.1.2015, 16.2.2015, 4.6.2015 and on various dates continuously to take appropriate action against the 4th respondent for the reasons mentioned in those representations.

6. The learned Counsel for the petitioner further submitted that in the meanwhile, the School Management has also forwarded a proposal dated 28.3.2014 for approval of the promotion of the petitioner. Based on the proposal forwarded by the Correspondent of the School, though the 2nd respondent has called for further particulars from the Headmaster of the school, namely, the 4th respondent herein, no particulars have been submitted with mala fide intention not to obtain the approval of the promotion of the petitioner. In view of the same, the petitioner has come forward with the Writ Petition in W.P.No.41365/2016.

7. The learned Counsel for the petitioner further submitted that the petitioner has also filed W.P.No.41366/2016 seeking to issue a Writ of Mandamus, directing the 2nd respondent to approve the promotion of the petitioner to the post of B.T. Assistant (Tamil) from the date of promotion based on the proposal forwarded by the 3rd respondent in the Proceedings in Na.Ka.No.02/14-15 dated 10.5.2016 by taking into consideration of non-teaching staff Attendance Register signed by the petitioner with an endorsement "'promoted as B.T. Assistant (Tamil)'" from the date of initial appointment with all consequential and other attendant benefits including arrears of salary within a time stipulated by this Court.

8. When these matters were taken up for hearing, after taking instructions, the learned Counsel appearing for the 3rd respondent submitted that earlier, the 4th respondent was instructed by the 3rd respondent to allow the petitioner to sign in the Master Attendance Register as B.T. Assistant (Tamil), but, the 4th respondent has permitted the petitioner to sign the Master Attendance Register as B.T. Assistant (Tamil) from 02.06.2014 to 09.06.2014 for a period of one week only. Thereafter, the 4th respondent has again prevented the petitioner from signing the B.T. Assistant Attendance Register and included his name in the non-teaching staff Attendance Register with an endorsement against his name as "'promoted as B.T. Assistant'". Therefore, the 3rd respondent has become helpless.

9. In view of the statement made by the learned Counsel for the 3rd respondent, this Court, by order dated 22.11.2018, directed the 3rd respondent to take appropriate disciplinary action against the 4th respondent as he cannot prevent a promoted B.T. Assistant from signing in the Master Attendance Register which would amount to misconduct as per Rule 20(1) of the Tamil Nadu Government Servants Conduct Rules. Pursuant thereto, it appears that the 4th respondent has been placed under suspension on 29.11.2018 and on the same day, he was also issued with a Charge Memo by the 3rd respondent. Again on 30.11.2018, the 3rd respondent has passed yet another order not permitting the 4th respondent to retire from service.

10. In view of the action taken against the 4th respondent by the 3rd respondent, the Writ Petitions are disposed of directing the 3rd respondent, namely, The Correspondent, Needamangalam Higher Secondary School, Needamangalam, Thiruvarur District to send a proposal to the 2nd respondent, namely, The District Educational Officer, Thiruvarur District, Thiruvarur forthwith for approval of the promotion of the petitioner and on receipt of the same, the 2nd respondent shall consider and dispose of the same on merits and in accordance with law, within a period of four weeks thereafter.

11. With the above directions, the Writ Petitions are disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Educational Officer,
Thiruvarur District,
Thiruvarur.
2. The District Educational Officer,
Thiruvarur District,
Thiruvarur.
3. The Correspondent,
Needamangalam Higher Secondary School,
Needamangalam,
Thiruvarur District.

+1cc to Mr.G.Sankaran, Advocate sr.no.88179

+1cc to Mr.P.Ganesan, Advocate sr.no.88895

+1cc to Government Pleader sr.no.88991

W.P.Nos.41365 & 41366 of 2016

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