

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.860 of 2016

and C.M.P.No.11079 of 2016

1.The State of Tamil Nadu
Rep by its Secretary
Education Department, Secretariat
Chennai 9.

2.The Director of Elementary Education
College Road, Chennai 6.

3.The District Elementary Education Officer
Virudhunagar.

4.The Assistant Elementary Educational Officer
Aruppukottai.Appellants

Vs

1.D.Saraladevi

2.The Secretary
Siddhi Vinayagar Hindu Primary School
A.Kallupattu
Aruppukottai.Respondents

(R2 given up)

Prayer:- Writ Appeal filed under Clause 15 of Letter Patent Act,
to set aside the order passed by this Court in W.P.No.1578 of
2014 dated 27.01.2014.

WP.No.1578 of 2014:Praying to issue a Writ of Mandamus,
directing the 2nd respondent to approve the appointment of the
petitioner as Secondary Grade Headmaster w.e.f. 17.10.1997 in
the 5th respondent school with all consequential benefits in
the light of the orde passed in W.P.No.16383 of 2000 dated
3.11.2008 confirmed by the order in W.A.No.1408 of 2010 dated
8.12.2011 on the basis of the representation dated 29.6.2013

For Appellants : Mr.K.Karthikeyan
Government Advocate

For R1 : No Appearance
For R2 : Given up

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The first respondent was appointed as Secondary Grade Headmaster with effect from 17 October, 1997 notwithstanding the fact that she was not having the experience of 5 years as a Secondary Grade Teacher in any of the institutions in the State of Tamil Nadu.

2. The claim made by the first respondent for approval of her appointment with effect from 17 October, 1997 was not considered by the appellants. The first respondent, therefore, filed a writ petition in W.P.No.1578 of 2014 for issuance of a writ of mandamus directing the Director of Elementary Education, Chennai to approve her appointment with effect from 17 October, 1997. The learned Single Judge allowed the writ petition by following an earlier order in W.P.No.16383 of 2000. The appellants have come up with this appeal on the ground that the Headmaster who was involved in W.P.No.16383 of 2000, was qualified for appointment to the post of Headmaster, as he was a teacher for a period of 5 years and as such, the said decision cannot be invoked in the case of the respondent whose first appointment itself was only as a Headmaster.

3. We have heard the learned Government Advocate on behalf of the appellants. None appeared on behalf of the first respondent.

4. The affidavit filed in support of the writ petition in W.P.No.1578 of 2014 indicates that the initial appointment of the first respondent was only as a Secondary Grade Headmaster. The appointment was made on 17 October, 1997.

5. Rule 15 of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 indicates that the teachers employed in private schools shall possess the qualification for appointment to the post of Secondary Grade Teacher. Admittedly, the first respondent was not having the experience of 5 years as a teacher for appointment to the post of Secondary Grade Teacher. Her appointment was therefore, not valid as on the date on which she was given appointment. Since the first respondent lacked the basic qualification for appointment to the post of Headmaster, there is no question of giving her retrospective appointment.

In view of Rule 15, the first respondent was not entitled for appointment from the date of her initial appointment.

6. The yet another ground taken by the first respondent relates to her B.Ed. qualification. The qualification in B.Ed. cannot be a substitute for five years experience, which is mandated by the Rules. We are therefore, of the view that the learned Single Judge was not correct in allowing the writ petition.

7. In the result, the order dated 27 January, 2014 is set aside. The writ petition in W.P.No.1578 of 2014 is dismissed.

The intra court appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Secretary to the Govt
Education Department, Secretariat
Chennai 9.

2.The Director of Elementary Education
College Road, Chennai 6.

3.The District Elementary Education Officer
Virudhunagar.

4.The Assistant Elementary Educational Officer
Aruppukottai.

+1 cc to the Govt Pleader sr9778

W.A.No.860 of 2016

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