



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.01.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.19919 of 2014

and

M.P. (MD) .No.1 of 2014

R.N.Krishnan

... Petitioner

Vs.

1. The District Elementary Officer,
Nagercoil, Kanyakumari District.

2. The Assistant Elementary Educational Officer,
Kuzhithurai, Kanyakumari District.

3. The Aided Primary School,
Mottakala,
Represented by its Manager,
Edaicode Post,
Kanyakumari District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records, on the file of the first respondent pertaining to its order bearing Na.Ka.No.3101/A2/2013 dated 19.05.2014 and to quash the same and consequently direct the respondents 1 and 2 to regularise the petitioner services as Secondary Grade Teacher with effect from 01.12.2006 at the third respondent school and to pay the salary and other benefits there from.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

ORDER

Heard Mr.S.C.Herold Singh, learned Counsel, appearing for the petitioner and Mr.J.Gunaseelan Muthiah, learned Additional Government Pleader, appearing for the respondents.

2. By consent of both the parties, the main writ petition is taken up for final disposal.



3.The petitioner claims that he was appointed as a Secondary Grade Teacher in the third respondent school in the year 2006, in the retirement vacancy of one Mr.Johnson. Since orders were not passed for approving his appointment, he filed W.P.(MD).No.3437 of 2014 and this Court, by order dated, 28.02.2014 directed the first respondent herein to consider the petitioner's representation dated 10.11.2013. Pursuant to the aforesaid direction of this Court, the impugned order dated 19.05.2014 came to be passed. The first respondent has chosen to reject the case of the petitioner. The order of rejection rests on two grounds:-

(i)Firstly, there is nothing on record to show that the petitioner was working from the year 2006.

(ii)Secondly, a proposal was received by the department that the petitioner was working in another aided institution in the year 2012.

4.If the petitioner was actually appointed in the year 2006, obviously, he would not have kept quiet, because no salary was paid by the department. Even his representation that was directed to be considered by an earlier order of this Court is dated 10.11.2013. It means that for seven years the petitioner did not choose to move the department. Even the writ petition was filed only in the year 2014. Therefore, the first respondent is justified in his conclusion that the petitioner was not working in the third respondent school from the year 2006.

5.Be that as it may, the existence of the third respondent school is not in doubt. Obviously, it must be having sanctioned posts.

6.The learned counsel for the petitioner would submit that there are two sanctioned posts. If that is so, the management of the third respondent school is permitted to submit a fresh proposal to the first respondent and upon receipt of such proposal, the first respondent shall pass appropriate orders on merits and in accordance with law, within a period of four weeks thereafter.

7.The Writ Petition is dismissed but with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/



To

1. The District Elementary Officer,
Nagercoil, Kanyakumari District.

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Kuzhithurai, Kanyakumari District.

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Mottakala,
Represented by its Manager,
Edaicode Post,
Kanyakumari District.

+ 1 cc TO Mr.S.C.Herold Singh , Advocate in SR No. 42602

+ 1 cc TO The Special Government Pleader in SR No. 42645

tsg

AE/SV MMS/SAR4/02.02.2018/3P/6C

W.P. (MD) No.19919 of 2014
17.01.2018