



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAMW.P.(MD) Nos.18260 of 2013 and 17587 of 2016andW.M.P(MD)No.16000 of 2016 in W.P.(MD) No.18260 of 2013
and W.M.P(MD)No.12711 of 2016 in WP(MD)No.17587 of 2016**W.P.(MD) Nos.17587 of 2016**

Christi Bai

....Petitioner

.vs.

- 1.The Secretary,
Department of School Education,
State of Tamil Nadu,
Secretariat,
Fort St.George,
Chennai-9.
- 2.The Director of School Education,
DPI Campus,
Chennai-6.
- 3.The District Educational Officer,
Cheranmahadevi,
at Tirunelveli.
- 4.The Manager,
Concordia High and Higher Secondary
Office of the Manager of Schools,
Nagercoil Synod-India Evangelical Lutheran Church,
Lutheran Centre,
Nagercoil - 629 001.
- 5.The Correspondent,
Concordia Higher Secondary School,
Valliyoor,
Tirunelveli District.
- 6.S.Karnaraj,
Headmaster,
Concordia Higher Secondary School,
Valliyoor - 627 117.

<https://hcservices.ecourts.gov.in/hcservices/>

7.T.Baskar.

... Respondents

**W.P. (MD) Nos18260 of 2013**

T.Baskar

....Petitioner

.vs.

- 1.The District Educational Officer,
Cheranmahadevi,
Tirunelveli. District.
- 2.The Correspondent/Manager
Concordia Higher Secondary School,
Valliyoor,
Tirunelveli District.
- 3.The Headmaster
Concordia Higher Secondary School,
Valliyoor,
Tirunelveli District.

... Respondents

Prayer in W.P(MD)No.17587 of 2016: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the third respondent in his proceedings in O.Mu.No.95/A1/2014, dated 20.2.2014 and to quash the same as illegal and consequently to direct the respondents 1 to 3 to approve the Petitioner's promotion as P.G.Assistant(Tamil) from 1.3.2007 in the fifth respondent school and grant all the service and monetary benefits within the time stipulated by this Court.

Prayer in W.P(MD)No.18260 of 2016: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the first respondent to consider the Petitioner's representation dated 24.09.2013 and to approve the Petitioner's appointment as P.G.Assistant in Tamil with effect from 1./6.2006 and to pay all the consequential benefits therefrom.

W.P. (MD) Nos.17587 of 2016

For Petitioner	: M/s.T.A.Ebenezer
For Respondents	: Mr.M.Muthu
1 to 3	Additional Government Pleader
For Respondents	: No appearance
4 to 6	
For Respondent-7	: Mr.S.C.Herold Singh

W.P. (MD) Nos.18260 of 2013

For Petitioner	: M/s.C.Herold Singh
For Respondent-1	: Mr.M.Muthu
	Additional Government Pleader
For Respondent-2	: M/s.T.Cibi Chakraborty
For Respondent-3	: M/s.T.Jegadeesha Pandian

**COMMON ORDER**

The Writ Petitioner in W.P(MD)No.18260 of 2013 Mr.T.Baskar was appointed as B.T.Assistant in the third respondent/School. The Petitioner claims that he was appointed as Tamil Pandit on 4.9.1999 in a regular vacancy on account of the retirement of Mrs.S.Mary on 31.5.2006. The Writ Petitioner had discharged his duties as Tamil Pandit in the third respondent school continuously and to the satisfaction of the management. The Petitioner was promoted to the post of P.G.Assistant Tamil on 1.6.2006 by proceedings issued by the second respondent. The P.G.Assistant Tamil post became vacant on account of retirement of Mr.S.M.Sam Langlin on 31.5.2006. The Petitioner claims that he was appointed in a vacant post which was sanctioned by the competent authorities. Thus he is entitled for approval of appointment as per the rules.

2.The grievance of the Writ Petitioner is that the Headmaster of the third respondent school submitted a proposal to the first respondent seeking approval of the appointment of the Writ Petitioner. The learned counsel for the Writ Petitioner states that on account of the management dispute, the Headmaster had submitted a proposal seeking approval of the appointment. Thus the first respondent should consider the proposal submitted by the Headmaster in accordance with the act and the rules. This apart, on account of the management dispute, the Writ Petitioner is made to suffer without any fault on his side. Thus the Writ Petitioner is unable to get the salary and suffering on account of the management dispute.

3.W.P(MD)No.17587 of 2016 filed by Smt.Christi Bai to quash the order of rejection, dated 20.2.2014 and to direct the respondents 1 to 3 to approve the appointment of the Writ petitioner as P.G. Assistant Tamil w.e.f. 1.3.2007.

4.The Management in respect of these Writ Petitioners submitted proposal seeking approval of their appointment. However, the District Educational Officer, Tirunelveli in proceeding, dated 20.2.2014 rejected the proposal submitted by the Management on the ground that W.P(MD)No.18260 of 2013 filed by Mr.T.Baskar was pending.

5.The learned counsel for the Writ Petitioners as well as the management made a submission that the Management appointed the Writ Petitioner Smt.Chrtisti Bai as P.G.Assistant Tamil on 1.3.2007 in the vacant post. Thus the approval of Smt.Christi Bai alone to be considered since the proposal was properly submitted by the management. In other words, the learned counsel is of an opinion that the proposal submitted by the Management alone to be considered by the competent authorities and the proposal submitted by the Headmaster should not be considered for grant of approval.

6.Considering the arguments as advanced by the respective <https://hcservices.ecourts.gov.in/hcservices/> counsels appearing on behalf of the parties to the lis, this Court is of an opinion that admittedly there is a management dispute.



Further, the Writ Petitioner in W.P(MD)No.18260 of 2013 was appointed as P.G.Assistant claims that he was promoted as P.G.Assistant Tamil prior to the appointment of the Writ Petitioner/Christi Bai in W.P(MD)No.17587 of 2016 on account of the management dispute, the management has not submitted the proposal in favour of T.Baskar. However the said management appointed Smt.Christi Bai independently to the post of P.G.Assistant Tamil and submitted the approval for appointment in her favour.

7.However, this Court cannot decide those factual disputes prevailing between the parties to the lis in these Writ Petitions under Article 226 of the Constitution of India. The power of the original authority for grant of approval cannot be denied nor can be taken away at this stage. This Court is of an opinion that the authorities competent should be allowed to exercise their powers in accordance with the provisions of the Acts and Rules. Intermittent intervention in administrative decisions are not preferable. The authorities competent in all respects should be allowed to conduct an enquiry in view of the facts and circumstances of each and every case and permitted to take a decision one way or other. The High Court while exercising the powers under Article 226 of the Constitution of India cannot intervene during the process of decision making. If the process being conducted in violation of statute or established principles, then alone the High Court can interfere. In all circumstances, the authorities must be allowed to exercise their power. If at all any final decision is taken, then alone the parties will get a cause of action to file a Writ Petition and not otherwise. In the present Writ Petitions, it is admitted that the proposal in respect of Smt.Christi Bai was submitted by the management and proposal in respect of Mr.T.Baskar was submitted by the Management of the school. However, the competent educational authorities should conduct an enquiry by providing opportunity to the Parties concerned, take a decision and pass orders on merits and in accordance with law.

8.In this view of the matter, the District Educational Officer, Cheran Mahadevi, Tirunelveli District is directed to consider both the proposals submitted by the Headmaster as well as the management and take a decision by conducting an enquiry and after affording reasonable opportunity to all the parties concerned and pass orders on merits and in accordance with law within a period of 12 weeks from the date of receipt of a copy of this order.

9.Accordingly, both the Writ Petitions stand disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Crl.Side)

/True copy/



To

- 1.The Secretary,
Department of School Education,
State of Tamil Nadu,
Secretariat,
Fort St.George,
Chennai-9.
- 2.The Director of School Education,
DPI Campus,
Chennai-6.
- 3.The District Educational Officer,
Cheranmahadevi,
at Tirunelveli.
- 4.The Correspondent/ Manager,
Concordia Higher Secondary School,
Valliyoor,
Tirunelveli District.
- 5.Headmaster,
Concordia Higher Secondary School,
Valliyoor, Tirunelveli.

+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.58400
+2CC TO M/S.T.A.EBENEZER, ADVOCATE, SR NOS, 58027 & 58028
+2CC TO M/S.S.C.HERLAD SINGH, ADVOCATE, SR NOS.57900 & 57902
+1CC TO M/S.ISSAC CHAMBERS, ADVOCATE, SR NO.58305

W.P.(MD) Nos.18260 of 2013
and 17587 of 2016
and
W.M.P(MD)Nos.16000 and
12711 of 2016
26.03.2018

vsn

MS/KKR/SAR-1/12.04.2018/5P.12C