

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2019

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.A.No.1681 of 2013

K.Subbian

... Appellant

Vs.

1. Tmt. Antony Rajeswari.

2. The Director of Elementary Education,
College Road, Chennai - 600 006.

3. The Chief Educational Officer,
Kamarajar District, Virudhunagar,

4. The District Elementary Educational Officer,
Virudhunagar, Kamarajar District.

5. K.V.S. Middle School,
represented by its Secretary,
Sengundrapuram, Virudhunagar,
Kamarajar District.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent
against the Order dated 04.06.2013 made in W.P.No.15152 of 2004.

W.P.No.15152/2004:

Writ Petition filed under Article 226 of the Constitution of
India for the issuance of a Writ of Certiorari calling for the
records pertaining to the order of the 2nd Respondent passed in
his proceedings Na.Ka.No.2439/A1/2004 dated 26.05.2004
confirming the order of the third respondent passed in his
proceedings Na.Ka.6580/A3/97 dated 09.06.1997 and quash the said
orders dated 26.05.2004 and 09.06.1997.

For Appellant : Mr.R.Ramachandran

For Respondents: Mr.P.Anbarasan (for R1)
Mr.K.Karthikeyan (for R2 to R4)
Government Advocate
No appearance (for R5)

J U D G E M E N T

(Order of the Court was delivered by S.MANIKUMAR, J)

In WP No.15152 of 2004, the petitioner / 1st respondent herein has sought for a writ of certiorari, calling for the records pertaining to the order of the 2nd respondent viz., The Chief Educational Officer, Virudhunagar, Kamarajar District, passed in his proceedings in Na.Ka.No.2439/A1/2004 dated 26.05.2004 confirming the order of the third respondent viz., The District Elementary Educational Officer, Virudhunagar, Kamarajar District, passed in his proceedings Na.Ka.6580/A3/97 dated 09.06.1997 and quash the said orders dated 26.05.2004 and 09.06.1997.

2. After hearing the learned counsel for the parties, vide order dated 04.06.2013 in WP.No.15152 of 2004, writ Court set aside the order impugned and consequently, confirmed the order approving the appointment of the writ petitioner. Being aggrieved, 5th respondent therein viz., K.Subbian, has filed the instant writ appeal.

3. Record of proceedings shows that on 04.05.2019, a Hon'ble Division Bench of this Court has passed the following order.

"We have prima facie found that the 1st respondent was appointed without considering the seniority of the appellant. In view of Rule 15 (4)(i) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974 the provisions of Tamil Nadu Private Schools (Regulation) Act, 1973 and the Government order issued in G.O.Ms.No.400 dated 25.05.1995, the post of Head Master should have been first offered to the appellant. Since it was not a case of merit cum seniority, the appellant was entitled to the post as a matter of right, being the senior most employee in the Institution. However, for the reasons best known to the Management, they appointed only the 1st respondent.

2. The learned counsel for the 1st respondent submitted that the appellant attained the age of superannuation and as such, it would not be equitable to appoint him at this point of time, by setting aside the appointment of the first respondent.

3. When it was pointed out as to whether the period of service as Head Master could be counted insofar as the total service of the appellant is

concerned, after appointing him notionally without any monetary benefits, the learned counsel for the first respondent fairly submitted that he is agreeable for such course and a Joint Affidavit will be filed indicating the above.

4. Post on 15 July 2019 for orders."

4. On this day, when the matter came up for further hearing, Mr.R.Ramachandran, learned counsel for the appellant seeks permission to withdraw the writ appeal. He has also made an endorsement to that effect.

5. Placing on record the above, Writ Appeal is dismissed as withdrawn. No Costs.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

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

2. The Chief Educational Officer,
Kamarajar District, Virudhunagar,

3. The District Elementary Educational Officer,
Virudhunagar, Kamarajar District.

+1 CC to Govt. Pleader sr 76896.

+1 CC to Mr.P.Anbarasan, Advocate sr 76602.

W.A.No.1681 of 2013

PA(CO)

SP(04/10/2019)