

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2019

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.5949 of 2011
and
M.P.No.2 of 2011

D.Anthonimary

...Petitioner

Vs.

1. The Joint Director of Elementary Education,
(Aided), College Road,
Chennai 600 006.
2. The District Elementary Educational Officer,
Cuddalore, Cuddalore District.
3. Manager, Aided Middle School,
Gopalapuram & Post, Kammapuram,
Virudhachalam, Cuddalore District.
4. P.Murugesan
Head Master & Aided Middle School,
Gopalapuram & Post,
Kammapuram,
Virudhachalam,
Cuddalore District.

.. Respondents

Prayer.: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the records of the 1st respondent made in Mu.Mu.No.17959/G1/G2/2009 dated 20.10.2010 confirming the order of the 2nd respondent made in Na.Ka.No.3746/A2/06 dated 29.12.2006 and quash the same and consequently, direct the respondents to promote the petitioner as Headmaster with all consequential benefits.

For Petitioner : Mr.T.Sellapandian

For R1 & R2 : Mr.A.Raja Perumal
Addl.Govt.Pleader. (Edn.)

For R3 & R4 : No Appearance

O R D E R

This writ petition has been filed by the petitioner praying to issue a writ of Certiorarified Mandamus calling for the records of the 1st respondent made in Mu.Mu.No.17959/G1/G2/2009 dated 20.10.2010 confirming the order of the 2nd respondent made in Na.Ka.No.3746/A2/06 dated 29.12.2006 and quash the same and consequently, direct the respondents to promote the petitioner as Headmaster with all consequential benefits.

2. According to the petitioner, the impugned order passed by the first respondent is not speaking order and the first respondent has not duly considered the provision of Rule 15(4) of the Tamil Nadu Private Schools Rules 1978. Therefore, the said impugned order is liable to be set aside.

3. The learned Additional Government Pleader would submit that the petitioner's appeal was duly considered.

4. On perusal, the impugned order itself stated that the 4th respondent has joined the service on 02.10.1996. Therefore, the petitioner is the junior than the 4th respondent. Both the petitioner and the 4th respondent have completed five years in the service. Hence the 4th respondent was appointed as the Headmaster in the school.

5. Rule 15(4) of the Tamil Nadu Private Schools (Regulations) Rules 1974, it has held as follows:

Rule 15(4): (i) Promotion shall be made on grounds of merit and ability, seniority being considered only when merit and ability are approximately equal.

ii) Appointments to the various categories of Teachers shall be made by the following methods:-

i) Promotion from among the qualified Teachers in that school; or

ii) Promotion from among the qualified Vocational Instructors in that school;

iii) If no qualified and suitable candidate is available by method (i) above-

6. On a perusal of the impugned order, the first respondent has not duly considered the merit and ability of the petitioner

as well as the 4th respondent under Rule 15(4) of the Act. Therefore, this Court is inclined to quash the impugned proceedings.

7. It is also brought to the notice of this court by the learned counsel for the petitioner that the petitioner as well as the 4th respondent were retired from service now and ultimately the petitioner is entitled for granting pension.

8. Considering the said fact that the first respondent has passed the impugned order without considering the Rule 15(4) of the Tamil Nadu Private Schools (Regulations) Act, 1974, no reasoned order has been passed by assessing the merit and ability of the petitioner as well as the 4th respondent. Therefore, this Court has no hesitation to quash the impugned proceedings.

9. Considering the facts and circumstances of this case, this Court is inclined to pass the following orders :

i) The writ petition is allowed and the impugned order passed by the first respondent dated 20.10.2010, is hereby set aside and the matter is remanded to the first respondent .

ii) The first respondent is directed to consider the petitioner's request, and pass fresh orders on merits and in accordance with law after giving opportunities to the parties concerned, as expeditiously as possible, preferably, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

kkd

सत्यमेव जयते Sd/-

Assistant Registrar

//True Copy//

WEB COPY Sub Assistant Registrar

To

1.The Joint Director of Elementary Education,
(Aided), College Road,
Chennai 600 006.

2. The District Elementary Educational Officer,
Cuddalore, Cuddalore District.

3. The Manager,
Aided Middle School,
Gopalapuram & Post, Kammapuram,
Virudhachalam, Cuddalore District.

+lcc to The Govt.Pleader,vide SR.NO.5068

W.P.No.5949 of 2011
and
M.P.No.2 of 2011

EV(CO)
kak(27/02/2019)



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