

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

WP.No.15692 of 2019
& WMP.No.15564 of 2019

G.Venkatesan

.... Petitioner

Versus

1.The State of Tamil Nadu,
rep. by its Principal Secretary to Government,
Department of School Education,
Secretariat,
Chennai-600 009

2.The Director,
Directorate of Public Libraries,
No.737/1, Anna Salai,
Chennai-600 002.

.... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Mandamus to direct the respondents to appoint the petitioner/Superintendent to the post of District Library Officer-additional charge instead of accommodating the ineligible Librarian Grade -I and Inspector of Libraries who are Lower Grade to the post of Superintendent by considering the petitioner's representation dated 16.05.2019.

For Petitioner : Mr.N.Manoharan

For R1 &2 : Mr.K.Karthikeyan, GA

ORDER

This Writ Petition has been filed seeking for issuance of a Mandamus to direct the respondents to appoint the

petitioner/Superintendent to the post of District Library Officer-additional charge instead of accommodating the ineligible Librarian Grade -I and Inspector of Libraries, who are lower Grade to the post of Superintendent by considering the petitioner's representation dated 16.05.2019.

2. It is seen that in an identical prayer, the learned Judge of this Court in WP.No.8242 of 2019 dated 22.03.2019(in the case of P.Venkatachalam Vs. The Principal Secretary to Government, Department of School Education Chennai-009 and another) has dismissed the Writ Petition. The order of the learned Single Judge as found in paragraph nos.2 to 6 are extracted hereunder:

2.The relief sought for in the present writ petition is misconceived in view of the fact that the in-charge position is temporary and provided in order to manage the administrative affairs of the particular office or institution. An in-charge position would not confer any right on the person, who is posted in such in-charge position in any post. The senior most official in a particular office is posted as an in-charge officer for the purpose of running the public administration smoothly and such a person cannot claim any right over such position or claim seniority or otherwise.

3.At the outset, the in-charge position is not only temporary, the same would not confer any service right on any person, is posted as in-charge officer, in order to run the administration smoothly. It is only an interim arrangement and the service rights of the respective employees can be adjudicated, if the regular promotion is undertaken. If an appointment or regular promotion process is undertaken, then alone, the service rights of the respective employees can be adjudicated. In-charge positions are sometimes given to the junior officials from the same office or from other persons. Such junior

persons appointed as in-charge officer during the Interregnum period, cannot claim any seniority benefit or experience benefit or otherwise.

4.This being the legal principles to be followed, the very relief sought for to appoint the writ petitioner as in-charge is absolutely misconceived and such a relief cannot be granted. If at all, the writ petitioner is qualified and eligible in accordance with the rules, the cases of all eligible persons are to be considered at the time of undertaking the process of promotion to the Post of District Library officer. Contrarily the Superintendent, who is working in the Ministerial line, cannot file a writ petition for direction to appoint him to the post of District Library officer (in-charge).

5.This being the factum, this Court is of an opinion that the representation or the claim of the writ petitioner to appoint him as District Library Officer(in-charge) cannot be considered and the writ petitioner is at liberty to agitate his issues, whenever the regular process for promotion or appointment to the Post of District Level Officer is undertaken.

6.With these observations, the writ petition stands dismissed. However, there shall be no order as to costs."

3. It appears that the same counsel appeared in that Writ Petition also. Whiles, this Court cannot take a different view in the matter since the prayer in the present Writ Petition is squarely covered by the above decision of the learned Single Judge.

4. The learned counsel for the petitioner would submit that against the order of the learned Single Judge, Writ Appeal has been filed and the same is pending before the Division Bench of this Court.

5. In view of the above, this Court is of the view that pendency of the Writ Appeal cannot be cited as a ground for grant of relief in the present Writ Petition. Therefore, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Principal Secretary to Government,
State of Tamil Nadu,
Department of School Education,
Secretariat,
Chennai-600 009

2.The Director,
Directorate of Public Libraries,
No.737/1, Anna Salai,
Chennai-600 002.

+1cc to Mr.N.Manokaran, Advocate Sr.72299
+1cc to the Government Pleader Sr.73426

W.P.No.15692 of 2019

01/11/2019

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