



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. (MD) No. 16950 of 2015

and

M.P. (MD) No. 1 of 2015

D. Ananda Amirtharaj

... Petitioner

-Vs-

1. The District Elementary Educational Officer,
Sivagangai District, Sivagangai.

2. The Assistant Elementary Educational Officer,
Kallal, Sivagangai District.

3. The Secretary,
School Committee,
Tagore Middle School,
Aranmanai Siruvayal, Kallal,
Sivagangai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent i.e., the Secretary, School Committee, Tagore Middle School, Aranmanai Siruvayal, Kallal, Sivaganagi District relating to his orders dated 10.09.2015 and quash the same and consequently, direct the respondents to reappoint the petitioner as Physical Education Teacher in the Tagore Middle School, Aranmanai Siruvayal, Kallal, Sivagangai District within a specified time frame under Pension Rules that may be fixed by this Court.

For Petitioner	: Mr. S. Visvalingam
For R1 and R2	: Mrs. S. Srimathy, Special Government Pleader.
For R3	: Mr. V. Muthuvelan, For M/s. Isaac Chambers

ORDER

The relieving order of the Physical Education Teacher in proceeding dated 10.09.2015 is under challenge in the present Writ Petition.

2. The writ petitioner was appointed as Physical Education Teacher by the Secretary, Tagore Middle School, Aranmanai



Siruvayal, Kallal, Sivagangai District on 19.09.2013. The writ petitioner was fully qualified for appointment to the post of Physical Education Teacher and the writ petitioner served in the post from 19.09.2013 to 10.09.2015.

3. It is pertinent to note that no salary has been paid by the management during the period of service. The proposal was submitted to approve the appointment of the writ petitioner and the said proposal was rejected on the ground that the post of Physical Education Teacher was not sanctioned for the School.

4. The learned Special Government Pleader appearing for the official respondents also states that the school is not eligible for the post of Physical Education Teacher and the post was not sanctioned. Thus, the appointment of the writ petitioner was not approved by the competent educational authorities.

5. Further, it is brought to the notice of this Court that the rejection of the approval order has not been challenged in the present Writ Petition. Further, the relieving order issued by the third respondent school management alone is under challenge.

6. This Court is of the considered opinion that the approval of appointment has not been granted in favour of the writ petitioner, in view of the fact that the post of Physical Education Teacher was not sanctioned for the third respondent school. Further, the writ petitioner was appointed by the third respondent school and served for more than about 2 years. Thus, the writ petitioner is entitled for management salary.

7. In the absence of any approval of appointment, the teachers are entitled to get management salary and the same is to be paid by the management. In some cases, the approval of appointments are granted belatedly or after a lapse of few years. In all those cases, till the appointments are approved, the management salary is to be paid to the teachers. No teachers can work without salary. The management cannot expect from the teachers to serve in the school without paying salary. If such a practise is allowed, it become an unlabour practise, it amounts to only level enrichment on the school management from receiving fees from the students. They are receiving grant in aid of 25% for other expenditures.

8. This being the factum, the management salary as applicable must be paid to the writ petitioner by the third respondent management. Under these circumstances, the relieving order passed by the third respondent need not be revoked at this length of time. However, the writ petitioner is entitled to management salary for the period for which he worked as Physical Education Teacher.



9. This being the factum, the third respondent is directed to pay salary to the writ petitioner for the period from 19.09.2013 to 10.09.2015, within a period of eight (8) weeks from the date of receipt of a copy of this order.

10. With these directions, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

Myr

To

1. The District Elementary Educational Officer,
Sivagangai District, Sivagangai.

2. The Assistant Elementary Educational Officer,
Kallal, Sivagangai District.

+1CC TO M/S.S.VISVALINGAM, ADVOCATE, SR.NO. 72272

+1CC TO M/S. SPECIAL GOVERNMENT PLEADER, SR.NO.72432

+1CC TO M/S.ISSAC CHAMBERS, ADVOCATE, SR.NO. 72376

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