



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2019

CORAM :

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.3178 of 2018
and
W.M.P. (MD)No.3335 of 2018

J.Pravin

... Petitioner

vs.

1.The Director,
School Education Department,
DPI Complex, Chennai - 6.

2.The Joint Director,
School Education Department
(Higher Secondary),
DPI Complex, Chennai - 6.

3.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

4.The District Educational Officer,
Nagercoil,
Kanyakumari District.

5.The Correspondent,
Scott Christian Higher Secondary School,
Nagercoil,
Kanyakumari District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 30.01.2017, passed by the first respondent in Na.Ka.No.77942/V1/E3/2016, quash the same and direct the respondents to include the post of Vocational Instructor in the staff fixation order of the fifth respondent School and consequently, approve the appointment of the petitioner as Vocational Instructor from the date of his appointment on 08.10.2009 with all monetary and service benefits.

For Petitioner

: Mr.R.Vijayakumar



For R1 to R4 : Mr.V.Anand
Government Advocate

For R5 : No Appearance

ORDER

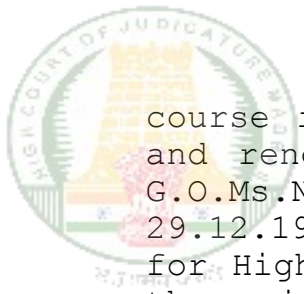
WEB COPY This Writ Petition has been filed seeking to quash the impugned order of the first respondent in Na.Ka.No.77942/V1/E3/2016, dated 30.01.2017 and a direction to the respondents to include the post of Vocational Instructor in the staff fixation order of the fifth respondent School and consequently, approve the appointment of the petitioner as Vocational Instructor from the date of his appointment on 08.10.2009 with all monetary and service benefits.

2.The learned counsel appearing for the petitioner has produced an order dated 07.03.2019, made in W.P.(MD)No.16386 of 2015 etc. batch [The Management/Correspondent, V.K.P.Higher Secondary School, Colachel, Kanyakumari District Vs. The State of Tamil Nadu, Rep. by its Secretary, Department of School Education, Chennai and others] and submitted that the learned Judge following the judgment of the Division Bench of this Court made in W.A.(MD)No.1494 of 2017, dated 01.03.2018 [The State of Tamil Nadu and others Vs. The Secretary/Correspondent], has granted similar relief to the petitioners therein. It is relevant to extract below Paragraph 6 of the order dated 07.03.2019, made in W.P.(MD)No.16386 of 2015 etc. batch.

'6.It is useful to refer to the relevant portions of the Judgment of this Court in The State of Tamil Nadu and others Vs. The Secretary/Correspondent [W.A(MD)No.1494 of 2017, decided on 01.03.2018], hereunder:-

'7.After elaborate and careful perusal of the materials on record, we find from the staff fixation year 2013-14, dated 29.10.2017 as on 01.08.2013 there was one post of Vocational Instructor for the subject General Mechanist and on the date when Thiru.R.Kannan was appointed, ie., 10.06.2013, the School had one post of Vocational Instructor and therefore, to state that the appointment itself is not sustainable is a stand which has to be rejected.

8.Next we come to staff fixation done by the Department for the year 2014 vide order, dated 07.11.2014. It is interesting to note that in the said order, the appellant department records the fact that there are 46 students in the 11th standard and 39 students in the 12th standard inspite of the same stated in the fixation order that one post is surplus. In our considered view, the Department cannot take such a technical plea. When it is admitted fact there exists sufficient students strength, the course has to continue. Thus, the order of the fifth respondent showing one post of Vocational Instructor as surplus, he has virtually closed down the said course as there would be no teacher. We cannot lose sight of the fact when there is full students strength and



course is in demand, the Department cannot take such a stand and render one post as surplus. In the Government Order in G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, in paragraph No.IV, the number of post eligible for Higher Secondary School is mentioned in the clause (d) of the said order which states that for vocational stream, two posts of teachers (full time) will be sanctioned irrespective of the number of courses. Therefore, even while passing the order, dated 29.10.2013 and fixing the staff strength for the year 2013-14, the respondent/Management was entitled to two post of Vocational Instructor. Thus, we find the reason for rejection of approval of the Vocational Instructor, Thiru.R.Kannan as well as staff fixation for the year 2014-2015 is completely flawed.

9.In the result, we dismiss the Writ Appeal for the reasons stated above and issue the following directions:-

(i) The respondents 4 and 5 shall approve the appointment of Thiru.R.Kannan, Vocational Instructor, which appointment was made on 10.06.2013, as the post was very much available in terms of staff fixation order, dated 29.10.2013.

(ii) Insofar the Academic Year 2014-2015 is concerned, the respondents 4 and 5 are directed to take note of the factual aspects which is admitted in the fixation order itself, namely, students strength and sanction one post with effect from the year 2014-2015 onwards in the category Vocational Instructor and the petitioner is entitled to be paid salary in the said post.

10.The above direction should be complied with within a period of twelve weeks from the date of receipt of copy of this order. Accordingly, the Writ Appeal fails and stands dismissed.' ' '

3.Following the same, this Writ Petition is disposed of in similar line. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Director,
School Education Department,
DPI Complex, Chennai - 6.

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



2.The Joint Director,
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(Higher Secondary),
DPI Complex, Chennai - 6.

3.The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

4.The District Educational Officer,
Nagercoil,
Kanyakumari District.

+1 CC to M/s.R.VIJAYAKUMAR, Advocate (SR-92744[F] dated
18/10/2019)

W.P. (MD)No.3178 of 2018
17.10.2019

_KK/SAR/13.11.2019/4P-6C/