

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2020

CORAM

THE HONOURABLE MR.JUSTICE P. VELMURUGAN

W.P. No. 26324 of 2007

J.Stanly Vincent Paul

...Petitioner

-vs-

1. The Chief Educational Officer,
Vellore District, Vellore.
2. Thiru Christraj Anban Daniel,
Physical Education Teacher,
Government Higher Secondary School,
Senjee, Vellore District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent in relation to the proceedings issued in Na.Ka.No.8328/A2/2007 dated 22.06.2007 and quash the same and issue a consequential direction to the first respondent to appoint the petitioner as Physical Education Teacher at Government Higher Secondary School, Senjee, Vellore District with service and monetary benefits.
(prayer amended and cause title amended as per order dated 09.11.2009 by KVJ in M.P. No. 1 of 2009 in W.P. No. 26324 of 2007)

For Petitioner : Ms. J. Jessi Julier
for Mr. R. Saseetharan

For Respondents : Mr. K. Raja
Government Advocate for R1
No appearance for R2

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O R D E R

The Writ Petition has been filed by the petitioner challenging the order passed by the first respondent dated 22.06.2007 and direct the first respondent to appoint the petitioner as a Physical Education Teacher at Government Higher Secondary School, Senjee, Vellore District with service and monetary benefits.

2. The petitioner, after getting the degree of Bachelor of Physical Education (Training Certificate) for appointment to the post of Physical Education Teacher in the Government Higher Secondary School and also in other Private Educational Institutions, registered his name in the Employment Exchange, Vellore on 29.04.1997 and the Registration No. is 860 of 1997. Thereafter, by proceedings dated 27.04.2007, the petitioner was called for interview for the post of Physical Education Teacher by the Chief Educational Officer, Vellore District, to attend the interview on 07.05.2007 and he has also attended the interview and produced all the relevant records and he is having sufficient seniority to be appointed in the said post.

3. Thereafter, some complaints have been made to the Chief Educational Officer, Vellore District to the effect that, the persons who got appointment in Private Schools receiving Government aid, have also attended the interview and that they should not be appointed in Government service in view of the fact that, such appointees in Private aided Schools have been receiving same salary as that of Government service.

4. The Chief Educational Officer, by his proceedings dated 16.05.2007, has called for particulars from the concerned Private Aided School about the candidates, who attended the interview and working as Physical Educational Teacher in the Private Aided School and Chief Educational Officer has sought for clarification as to whether such candidates are appointed in the approved post and receiving same salary as that of Government School Teacher. In the above said proceedings, seven candidates names have been given and the petitioner's name is on the first of the list. The claim of the petitioner is that, he is eligible to be appointed in the Government School so, before the normal selection, the petitioner alleging violation of Articles 14 and 16 of the Constitution of India, challenged the said order, and the petitioner also seeks direction of this Court, to appoint him as Physical Education Teacher in the Government Higher Secondary School, Senjee, Vellore District.

5. The learned Government Advocate appearing for the first respondent submitted that, already the petitioner has got job in the Government Aided Private School and he is getting the Government salary and even if the petitioner has got appointment in the post for which interview held, he is eligible to get the same salary. Further after obtaining job in the Private School, he ought to have intimated to the Employment Exchange. That apart the petitioner was not sent any call letter for the post and therefore, the petitioner suppressed the same before this Court. Further he has already got the job and working in

Government Aided Private School. Therefore, the petitioner is not entitled for relief sought for in this Petition.

6. I have heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the first respondent and perused the materials placed before this Court.

7. Admittedly, the petitioner was working as Physical Education Teacher in the Government Aided Private School. The appointment of the petitioner is also equal to the Government School Teacher and also getting the same salary. Therefore, once he got appointment in the equivalent Government service, the petitioner is not entitled to continue his registration with the Employment Exchange. Further, the petitioner ought to have intimated to the Employment Exchange about his employment in the Government Aided Private School. However, he has failed to inform the same. He also attended the interview for the post of Physical Education Teacher before the Chief Educational Officer, Vellore District. Since the petitioner was already working in the Government Aided Private School receiving the same salary, the relief sought for in the Writ Petition cannot be granted to the Petitioner. Hence, this Petition is devoid of merits and liable to be dismissed,

8. Accordingly, the Writ Petition is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chief Educational Officer,
Vellore District, Vellore.

+1cc to Mr.R.Saseetharan, Advocate, S.R.No.40351

+1cc to the Government Pleader, S.R.No.40688

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SR-ii(CO)
rv(20/01/2021)