

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 21.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.2748 OF 2013

AND

M.P. NO. 2 OF 2013

K.Chandrakumar

.. Petitioner

- Vs -

1. The Director of School Education
DPI Complex, College Road
Chennai - 600 006.

2. The District Educational Officer
District Educational Office
Tirupathur.

3. The Correspondent
Devalois Hr. Secondary School
Church of South India
Diocese of Vellore, Kasam
Katpadi, Vellore 632 007.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the respondents pertaining to the termination notice issued by the 3rd respondent in 2.1.13 issued pursuant to the proceeding of the 2nd respondent dated 19.9.07 in O.Mu. No.3869/Aa2/07 and quash the same and further direct the 1st respondent to approve the appointment of the petitioner.

For Petitioner : Mr.S.Babu for Mr. V.Anand

For Respondents : Mr.S.Suresh Kumar, GA for RR-1 & 2

Mr.P.Muthukumar for

M/s.Paul & Paul Associates for R-3

ORDER

It is the case of the petitioner that he joined the service at CSI Vellore Diocese Good Shepherd School, Chittoor, as clerk-cum-cashier and served there from 1986 to 2003. The closure of the said school in the year 2004-2005 led to the absorption of the staff members in Voorhees Higher Secondary School, Ashram Girls High School and CSI Diocese School, Arni. The petitioner was appointed as Clerk in the Alumini Association Office at Voorhees College and served in the said post from 2005-2007. Since 1.8.07, the petitioner is working as Record Clerk in the 3rd respondent School vide Board Resolution dated 25.7.07. The appointment of the petitioner was submitted to the 2nd respondent for approval, but it was returned vide letter dated 19.9.07 citing that G.O. Ms. No.115 dated 30.5.07 did not whisper anything about non-teaching staff and record clerk. The petitioner continued to work in the said school. It is the further averment of the petitioner that the Chief Educational Officer called for particulars relating to educational qualification and staff fixation from the school pursuant to which they were sent.

2. The petitioner has further averred that the post of Record Clerk in the 3rd respondent school was approved and the 3rd respondent appointed the petitioner in the said post and forwarded the proposal to the 2nd respondent on 9.12.10 for approval. Though frequent correspondence occurred between the petitioner, the 2nd respondent and the school, however the post of the petitioner was not approved. However, the correspondent of the school, in collusion with the official respondents caused proceedings to be issued, whereby, the petitioner was directed to qualify in Tamil within a period of two years from the date of appointment. The respondents, without considering G.O. No.1585 dated 6.10.1987, directed the petitioner to qualify in Tamil, though the petitioner was entitled to continue in service without qualifying in Tamil. Since the petitioner did not qualify himself in Tamil within the time prescribed, the 3rd respondent terminated the services of the petitioner vide letter dated 2.1.13 w.e.f. 3.2.13. Aggrieved by the said impugned order, the present petition has been preferred.

3. Learned counsel appearing for the petitioner submits that the petitioner is a Telugu knowing person and initially he was working in Andhra Pradesh. While reiterating the grounds raised in the writ petition, learned counsel for the petitioner laid emphasis on G.O. No.1585 dated 6.10.1987 which did not prescribe qualification in Tamil as a condition for being appointed, more especially for non-teaching staff. It is the submission of the petitioner that exemption has been granted in G.O. No.376 for persons, who did not have the prescribed

qualification of Tamil as second language. In view of G.O. No.376, the order of termination passed against the petitioner is wholly unsustainable. Accordingly, he prays for allowing the present petition.

4. Learned counsel appearing for the 3rd respondent submitted that initially G.O. No.1585 dated 6.10.87 prescribed acquirement of qualification of Tamil to both teaching and non-teaching staff, including the persons appointed in minority schools, who must possess qualification of Tamil as second language. It is the submission of the learned counsel for the petitioner that a person, who has not qualified himself in Tamil, more particularly, in the State of Tamil Nadu, is not entitled to be appointed in non-teaching post. It is the further submission of the learned counsel that G.O. No.376 relates only to teaching staff, who have been granted exemption and not for administrative staff. In such view of the matter, the petitioner not having the requisite qualification and not having been exempted by the Government is not entitled to continue in the post and, therefore, the impugned order is liable to be sustained.

5. This Court paid its careful attention to the rival contentions advanced on behalf of the parties and perused the materials available on record.

6. The facts in issue are not in dispute. It is fairly conceded by the learned counsel for the petitioner that the petitioner knows only Telugu and has not obtained the necessary qualification in Tamil. Though it is the stand of the petitioner that exemption has been granted to him vide G.O. No.1585, however, it is the categorical submission of the learned counsel for the 3rd respondent, which has been supplemented by the learned Special Government Pleader appearing for the respondents 1 and 2 that the said G.O. No.1585 in which reference is had to G.O. No.376, is only applicable to teaching staff, where they have been given exemption and the said Government Order is not applicable to non-teaching staff. Further G.O. No.1585, while referencing G.O. No.376 with regard to teaching staff, further grants exemptions to such of those teaching staff of minority school as well. It is not in dispute that the petitioner is a non-teaching staff and is working on the administrative side and as such, he is not entitled to claim the benefit of G.O. No.376. G.O. No.1585 on which reliance is placed by the petitioner prescribed qualification of Tamil as second language for both teaching and non-teaching staff. However, vide G.O. No.376 the Government had granted exemption only insofar as teaching staff is concerned, that too with certain riders. The said Government Order has not granted any benefit to the non-teaching staff. In such a background, G.O.

No.1585, which prescribes for qualification of Tamil as second language for non-teaching staff would definitely stand attracted to the petitioner. Further, it is to be pointed out that G.O. No.1585, in which reference to G.O. No.376 has been drawn only grants exemptions to such of those teaching staff, who do not take up administrative positions and also relinquish their right for promotion. The said G.O. No.1585 is silent as to non-teaching staff. Therefore, the petitioner cannot take the aid of G.O. No.1585 to further his cause. The respondents, after proper appreciation of the Government Orders and in view of the fact that the petitioner has not obtained the prescribed qualification of Tamil, has rightly passed the impugned order and this Court does not find any infirmity in the said order.

7. For the reasons aforesaid, this petition, being devoid of merits, is accordingly dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Director of School Education
DPI Complex, College Road
Chennai - 600 006.
2. The District Educational Officer
District Educational Office
Tirupathur.

+1cc to Mr.Paul & Paul Associates, Sr.No.27333
+1cc to the Government Pleader Sr.No.27526

WEB COPY

W.P. NO. 2748 OF 2013

rsv (co)
rr ii (15/09/2020)