

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No.31841 of 2015 and
M.P.No.1 of 2015

A.S. Mujeebur Rahyman

... Petitioner

Vs

1. The Director of School Education,
Chennai - 6.
2. The Director of Educational Officer,
Nagapattinam District,
Nagapattinam.
3. The Correspondent,
Ghouthiya Higher Secondary School,
Nagore - 611 002.
Nagapattinam Taluk & District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the second respondent in his proceedings in O.Mu.No.1559/A4/2015, dated 19.06.2015 and quash the same and direct the respondents to convert the post of B.T. Assistant (History) into one of B.T. Assistant (Science) and approve the appointment of the petitioner from 01.06.2005 and confer all the consequential benefits.

For Petitioner : Mr.P. Ganesan
for C.S.Associates

For RR 1 & 2 : Mrs.P. Kavitha
Government Advocate

For R3 : Mr.S. Mani

ORDER

This writ petition has been filed by the petitioner seeking to call for the records pertaining to the impugned order passed by the second respondent/District Educational Officer in his proceedings in O.Mu.No.1559/A4/2015, dated 19.06.2015, quash the same and consequently, direct the respondents to convert the post of B.T. Assistant (History) into one B.T. Assistant (Science) and approve the appointment of the writ petitioner from 01.06.2005 and confer all the consequential benefits.

2. According to the petitioner, on 11.03.1998, he joined as Secondary Grade Assistant in the third respondent/school. Since he has been working as Secondary Grade Teacher in the third respondent school, a B.T. Assistant (Science) was promoted as Headmaster of High School and in that place he was appointed as B.T. Assistant on 07.06.2004 and papers were forwarded for approval. While the papers are pending for approval, the said promotee relinquished his promotion and requested to revert him as B.T. Assistant. Accordingly, he was reverted and posted as B.T. Assistant, which resulted in his reversion as Secondary Grade Assistant. Again, another B.T. Assistant (History) was promoted as Headmaster of the third respondent/school on 01.06.2005. Thereafter, the respondent school promoted the writ petitioner as B.T. Assistant (Science) on 01.06.2005 and the papers were forwarded for approval to the second respondent. The second respondent informed the third respondent school that the management has to get conversion of the B.T. Assistant (History) into one of B.T. Assistant (Science) from the Directorate of School Education and thereafter, approval could be considered. On receipt of the information from the second respondent, the management represented to the first respondent seeking conversion of post and approval of appointment on 27.01.2006. However, the 1st respondent has not passed any order so far. Subsequently, the second respondent rejected the approval and passed the impugned order dated 19.06.2015. Challenging the aforesaid rejection order in his proceedings passed by the second respondent dated 19.06.2015. Hence, the petitioner has come forward with the present writ petition before this Court.

3. During the course of the arguments, the learned counsel appearing for the writ petitioner submitted that the third respondent/School has not approached the second respondent/Educational Authority for conversion of the subject from B.T. Assistant (History) to B.T. Assistant (Science) separately. If any such representation is made, the educational authority has to be considered the proposal for the conversion of the post.

4. The learned counsel appearing for the third respondent/School submitted that the proceedings in Na.Ka.No.8485/A3/04, dated 12.01.2006 issued by the second respondent/District Educational Officer was sent to the third respondent/School. Further, by stating that if any representation is made by the petitioner to the third respondent/School, the same shall be considered in accordance with law.

5. Further, the learned counsel appearing for the third respondent/School submitted that based on the Government Order in G.O.(Ms).No.144, School Education (D1) Department, after careful consideration, the Government has accepted the recommendation of the Director of School Education in para No.2 which reads thus:

3.(ii). In the Government aided schools classes from 6th to 10th are measured as a single scale for the permanent vacant in Secondary Grade posts. The Chief Educational Officers are empowered to convert the said vacant Secondary Grade post as BT assistant as per the requirement and qualification for the said school.

6. Mrs.P.Kavitha, learned Government Advocate appearing for the respondents 1 and 2 submitted that if any proposals have been received from the petitioner by the respondents and the same shall be considered on merits and in accordance with law.

7. In view of the aforesaid submissions made by the parties concerned, there is no infirmity in the order passed by the second respondent/DEO and hence, the writ petition is devoid of merits and no warrant interference in the impugned order passed by the third respondent school. If so desire to make a fresh representation, a copy of the representation send it to the competent authority.

8. By taking note of the aforesaid submission of the parties concerned, the writ petition is disposed of with the following directions;

- (i).The petitioner shall make fresh representation to the third respondent school within two weeks from the date of receipt of a copy of this order.
- (ii). If the petitioner is found eligible, the 3rd respondent shall consider the representation of the petitioner for conversion of the subjection from B.T. Assistant (History) to B.T Assistant (Science) and submit a proposal to the authorities concerned as expeditiously as possible.
- (iii). On receipt of such application from the 3rd respondent, the same shall be considered by the authorities concerned

and pass orders, within a period of eight (8) weeks, thereafter.

9. With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

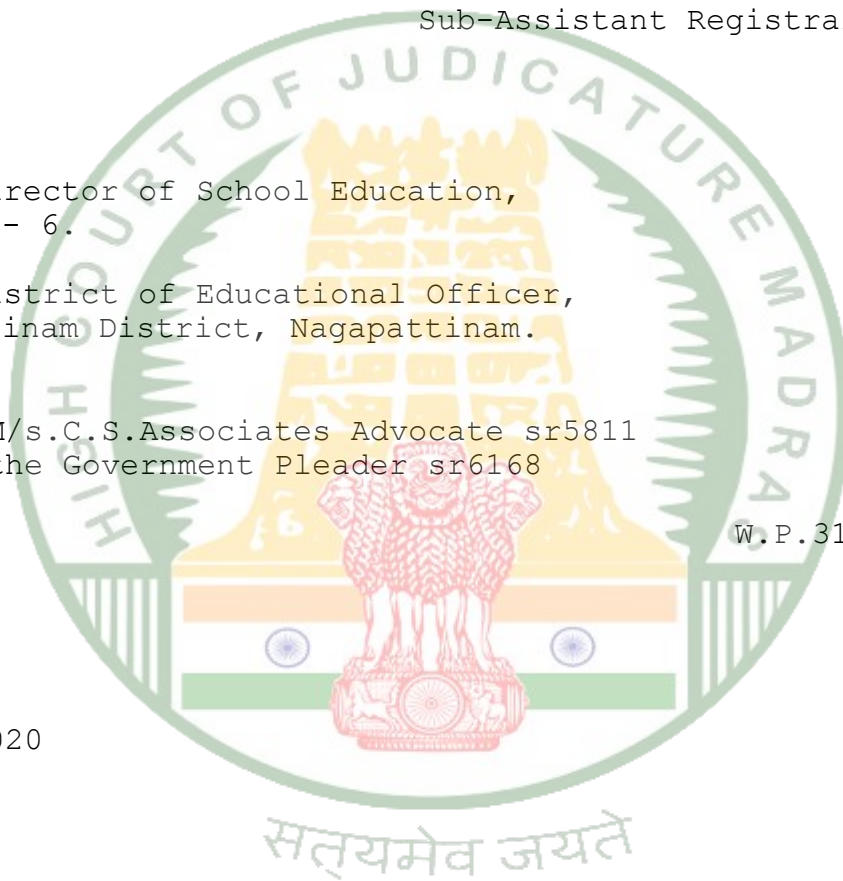
msm
To

1. The Director of School Education,
Chennai - 6.
2. The District of Educational Officer,
Nagapattinam District, Nagapattinam.

+1 cc to M/s.C.S.Associates Advocate sr5811
+1 cc to the Government Pleader sr6168

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