

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 22.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.20314 OF 2014

R.Sakthivel

.. Petitioner

- Vs -

1. The Director of Elementary Education,
College Road, Chennai-600 006
2. The District Elementary Educational
Erode, Erode District.
3. The Assistant Elementary Educational
Officer, Kodumudi, Erode District.
4. The Secretary,
Aided Elementary School,
Nadupalayam, Kodumudi Block,
Erode District.

.. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in Na.Ka.No.5241/A3/2013 dated 11.12.2014 and quash the same and direct the respondents to approve the petitioner's promotion as Headmaster, Aided Elementary School, Nadupalayam with effect from 01.06.2012 and grant him all consequential benefits.

For Petitioner : M/S.P.Rajendran
For Respondents : Mr.S.Sureshkumar, G.A

WEB COPY ORDER

The petitioner has filed this writ petition, to call for the records relating to the impugned order of the second respondent in Na.Ka.No.5241/A3/2013 dated 11.12.2014 and quash the same and direct the respondents to approve the petitioner's promotion as Headmaster, Aided Elementary School, Nadupalayam with effect from 01.06.2012 and grant him all consequential benefits.

2.The petitioner is at present working as Headmaster of the 4th respondent school, namely, Aided Elementary School, Nadupalayam , Kodumudi Block, Erode district. He was originally appointed as Secondary Grade Teacher on 10.09.2009. One Tmt.Kalavathy, who was working as Headmistress of the said school retired from service on 31.10.2011 and she was re-employed till the end of the academic year, namely 31.05.2012. After her retirement, since the petitioner was the only secondary grade teacher available at that time in the 4th respondent school, he was promoted as Headmaster in the retirement vacancy, with effect from 01.06.2012. On such promotion, the petitioner is entitled to pay of Primary School Headmaster on completion of 5 years of service in the post of Secondary Grade Teacher and Headmaster i.e., on 11.09.2014. The petitioner had earlier filed writ petition in WP.No.29390 of 2013 seeking a direction to approve his promotion as Headmaster of the Aided Elementary School, Nadupalayam with effect from 01.06.2012 and for consequential benefits, and this Court by order dated 31.10.2013, disposed of the petition with a direction to the respondents therein to consider the representation of the petitioner dated 09.07.2013. Pursuant to the said order, the 2nd respondent by the impugned order dated 11.02.2014, rejected the approval for the petitioner's appointment on the ground that the petitioner has not completed 5 years in the post of secondary grade teacher. Challenging the same, the present petition is filed.

3.Learned counsel appearing while reiterating the grounds as raised in the affidavit filed in support of the petition, submitted that several such appointments have been made and ratified on condition that pay in the scale of Primary School Headmaster would be paid only on completion of total service of five years. It is also brought to the notice of this Court that the very same issue already came up for consideration before the Madurai Bench of this Court in WP.No.4554 of 2014, and by order dated 07.01.2014, direction was issued to the respondents to pay the salary from the date of appointment and not from the completion of 5 years. The petitioner's case also being identical to the issue raised in the above writ petition, favourable orders are pleaded at the hands of this Court.

4.A counter affidavit has been filed by the 2nd respondent and learned Government Advocate appearing for the respondents submitted that as per G.O.Ms.No.97, School Education Department dated 05.07.2001, for appointment as primary school Headmaster one should have five years of experience in the post of Secondary Grade Teacher and on receipt of genuineness certificate with regard to educational qualification and on receipt of the completion of five years service approval would be issued for appointment as Headmaster. The petitioner not

having possessed of the five years experience, approval of his candidature was rejected and the said order does not require any interference.

5.This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

6. It is not in dispute that the petitioner is in possession of the necessary educational qualification and other relevant qualification for being considered for the post of Headmaster. The only lacunae on the part of the petitioner is that he is not in possession of 5 years experience, which he completes only on 10.09.2014. However, taking into consideration the welfare of the students, though the 3rd respondent has recommended the case of the petitioner, however, the same was rejected, as the petitioner was not in possession of the requisite experience of 5 years. It is to be pointed out that the qualification prescribed by the Government are on the basis of policy decision taking into consideration several factors and this Court, sitting under Article 226 of the Constitution cannot superimpose its view to the said policy decision, so long as the said policy decision is not within the four corners of law. In such a backdrop, the Government Order, which is a policy decision of the State, does not suffer the vice of illegality. The Government Order cannot be said to be bad in law, as the said prescription has been made for all feeder category posts and no exclusion is made. It is within the purview of the State Government to impose reasonable and considerable restrictions for maintaining the standards not only in teaching, but also in the administrative side. Such being the case, the Government Order cannot be held to be bad. When once the petitioner does not satisfy the conditions imposed in the Government Order, the rejection of the name of the petitioner for the next higher post of Headmaster cannot be said to be unsustainable and it does not warrant any interference of this Court.

7.In such view of the above fact, this writ petition stands dismissed. However, in the said circumstances, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

jrs

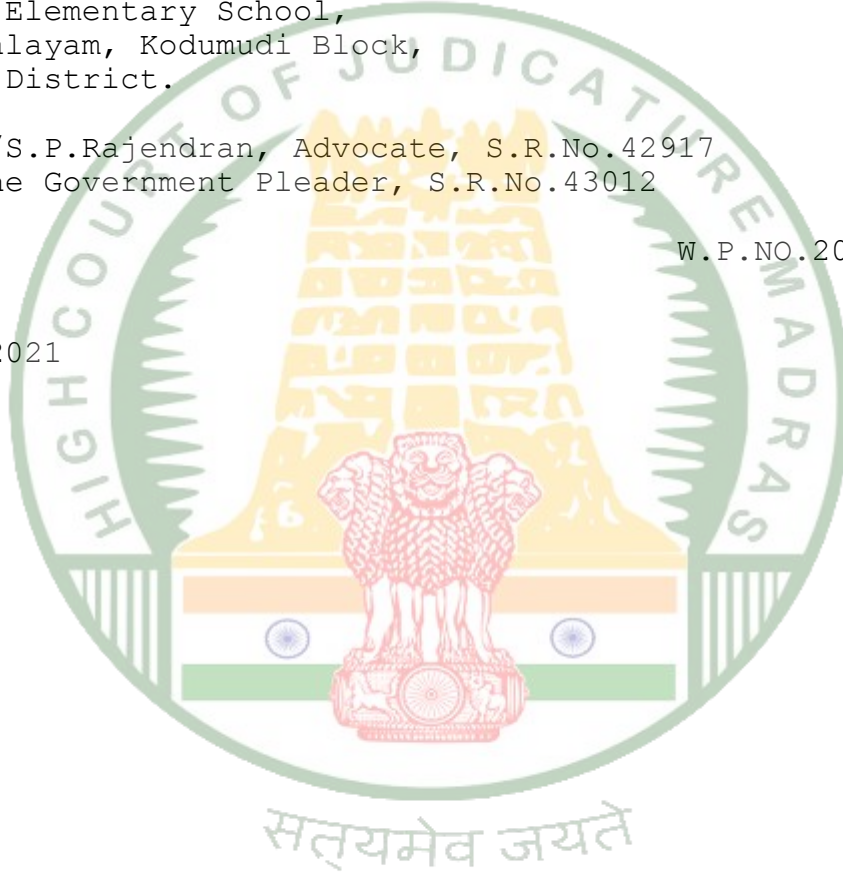
To

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+1cc to M/S.P.Rajendran, Advocate, S.R.No.42917
+1cc to the Government Pleader, S.R.No.43012

W.P.NO.20314 of 2014

MG (CO)
CS/17/02/2021



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