

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 14.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.11476 OF 2014

R.Amudhan

... Petitioner

- Vs -

- 1.The Secretary
School Educational Department,
Government of Tamil Nadu,
Fort. St.George,
Chennai 600 009.
 - 2.The Director of School Education,
College Road,
Chennai 600 006.
 - 3.The Chief Education Officer,
Saidapet, Chennai.
 - 4.The District Educational Officer(East),
Chennai 600 002.
 - 5.The Secretary,
Hindu Higher Secondary School,
Triplicane, Chennai 600 005.
- ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus, directing the 4th respondent to consider the representation of the petitioner submitted on 5.10.2002 followed by the last reminder dated 24.1.2014 for promotion as B.T. Assistant in English in the 5th respondent school from the date of his appointment 14.2.2002 and pass orders therein on merits by disposing representation within a reasonable time.

For Petitioner : M/S.C.Johnson

For Respondents : Mr. S.Sureshkumar, G.A.,

ORDER

The petitioner in the above writ petition prays, to direct the 4th respondent to consider the representation of the

petitioner submitted on 5.10.2002 followed by the last reminder dated 24.1.2014 for promotion as B.T.Assistant in English in the 5th respondent school from the date of his appointment 14.2.2002 and pass orders therein on merits by disposing representation within a reasonable time.

2. According to the petitioner, he was appointed as a Physical Education Teacher in the 5th Respondent school. Thereafter He acquired post graduate degree in English in the year 2000 and subsequently he was promoted as B.T. Assistant English in the 5th respondent school in the year 2002. However, subsequently the 5th respondent has cancelled the promotion of the petitioner as B.T. Assistant in English on the ground that the post has been resumed by the department. Thereafter he made several representations to the 4th respondent, to request them to promote him as B.T. Assistant in English as per G.O.Ms.No.285 School Education dated 1.10.1999. On 20.05.2004, the 4th respondent sought for remarks for considering the representations of the petitioner, which are still pending. Hence, the present writ petition is filed.

3. Though very many grounds have been raised in support of the petition, the learned counsel appearing for the petitioner submitted that without going into the merits of the issue, it would suffice if this Court directs the 4th respondent to consider the petitioner's representation dated 5.10.2002, within a time frame as fixed by this Court.

4. On the above contention, this Court heard the learned standing counsel appearing for the respondents, who has filed a counter affidavit on behalf of respondent, denying the averments made by the petitioner and contended that the 5th respondent has forwarded the appointment proposals of the petitioner to the 4th respondent on 4.3.2002 for approval and he further submitted that one post of P.G. Assistant English was vacant on 7.1.2004 due to the promotion of Thiru. Vipranarayanan as Headmaster and the school committee of the 5th respondent school has duly considered the petitioner and the petitioner was promoted as P.G. Assistant English on 20.11.2006 and the appointment was approved by the 4th respondent vide letter dated 7.12.2007 and further the delay in promoting the petitioner as P.G. Assistant was due to the pendency of the approval of Thiru.Vipranarayanan as Headmaster. Further, he submitted that the petitioner has given a petition on 19.1.2004 to the 4th respondent and the 4th respondent has called for remarks of the 5th respondent on 20.5.2004. It is the further submission of the respondent that the 3rd respondent has resumed the B.T.Assistant post (Telugu) in which the petitioner was appointed and it is not open to the petitioner to claim consideration of his case for the post of B.T. Assistant, when no such post was available. However, the petitioner has been duly considered for the post of P.G. Assistant (English) and the petitioner is working as P.G. Assistant with effect from 20.11.2006, hence the relief sought

for by the petitioner having already been granted, nothing survives for adjudication.

5.This Court considered the rival contentions advanced by either side and perused the materials available on record.

6. It is not disputed by the petitioner that after being appointed in the school, he acquired post graduation in English and based on his qualification, he has been appointed as P.G. Assistant (English). Though he had been appointed as B.T. Assistant, in the vacant post which arose due to the voluntary retirement of one G.Maalini, B.T. Assistant, however, the said post having been resumed by the department, technically there is no post in which the petitioner could be accommodated as B.T. Assistant. It is to be pointed out that though the petitioner has been appointed as P.G. Assistant (English), the present writ petition has been filed relating to the cancellation of his appointment as B.T. Assistant. It is to be pointed out that the petitioner has sought for a mandamus to have his representation considered for appointment as B.T. Assistant, but the petitioner has not challenged the order of cancellation of his appointment as B.T. Assistant. Without challenging the cancellation order, merely filing this writ petition is not sufficient. In such a backdrop, the petitioner cannot seek a mandamus as against the 1st respondent and no mandamus could be issued as sought for. Further the school committee of the 5th respondent 's school is the authority to take final decision in the matter of appointment and the petitioner's grievances ought to be redressed only by the school committee. Further, the petitioner having been appointed as P.G. Assistant and working as such and he having not challenged the cancellation order in a manner known to law, the relief sought for by the petitioner cannot be granted.

7. For the reasons aforesaid, no mandamus as sought for could be issued and, accordingly, this writ petition is dismissed. There shall be no order as to costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

jrs

To

1.The Secretary
School Educational Department,
Government of Tamil Nadu,
Fort. St.George, Chennai 600 009.

2. Director of School Education,
College Road, Chennai 600 006.

3. Chief Education Officer,
Saidapet, Chennai.

4. The District Educational Officer (East),
Chennai 600 002.

5. Secretary,
Hindu Higher Secondary School,
Triplicane, Chennai 600 005.

+1cc to the Government Pleader, S.R.No.4109

PVS (CO)
SM/18/02/2021

W.P. NO. 11476 OF 2014



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