

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2020

CORAM

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No. 17855 of 2017

S. Arivu

...Petitioner

Vs

1. The Chief Educational Officer,
Cuddalore - 607 001.

2. District Educational Officer,
Cuddalore - 607001.

3. Correspondent,
Girls Christian Higher Secondary School,
Melpattambakkam-607104,
Panruti Taluk,
Cuddalore District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing respondents 1 and 2 to approve the petitioner appointment as Music Teacher in the of 3rd respondent school with effect from 30.11.2007 and consequently to enter petitioners service register from 30.11.2007 and to pay all the arrears of salary (differential salary) to the petitioner together with interest.

For Petitioner : Mr.D.Basker

For Respondents : Mrs.P.Kavitha, GA - R1 & R2
No Appearance - R3

O R D E R

The prayer sought for in the Writ Petition is to direct the respondents 1 and 2 to approve the petitioner appointment as Music Teacher in the of 3rd respondent school with effect from 30.11.2007 and consequently to enter petitioners service register from 30.11.2007 and to pay all the arrears of salary (differential salary) to the petitioner together with interest.

2. Heard the learned counsel for the petitioner and learned Government Advocate appearing for the respondents 1&2 and perused the documents available on record.

3. The learned counsel for the writ petitioner has submitted that the writ petitioner was appointed by the 2nd respondent as Music Teacher on 27.11.2007 and the writ petitioner joined in the 3rd respondent school on 30.11.2007. On the same, proposal has been sent to the 1st respondent by the 3rd respondent for approval of his appointment. Subsequently, the petitioner acquired Music Degree (M.Music) from Annamalai University which is equivalent to that of obtained from Madras University. His appointment was not approved, therefore, he filed a writ petition in W.P. No. 11491 of 2008 before this Court and this Court by order dated 30.04.2008, directed the 2nd respondent to consider the request of the writ petitioner and pass orders within a period of four weeks. On 09.02.2010 the 2nd respondent passed order approving the appointment of the writ petitioner w.e.f. 23.10.2009 instead of 30.11.2007. According to the writ petitioner, approval was granted almost two years after appointment, which results in losing 50% of salary. Therefore, the writ petitioner has made representation dated 15.04.2017 to the 2nd respondent, however, the same was not considered till date, hence this writ petition.

4. The learned Government Advocate appearing for the respondents 1 & 2 would submit that the petitioner acquired Masters degree in Music in Annamalai University. Earlier the said degree was not recognized by the respondent for appointment. Subsequently, the Government issued G.O.No. 9 School Education Department, dated 23.10.2009 stating that the Masters degree in Music obtained from Annamalai University can be considered for appointment to the post of Music Teacher in Government Aided Schools. Therefore, as per the said Government Order, the petitioner's appointment was approved with effect from 23.10.2009.

5. In a similar case, the Hon'ble Full Bench of this Court in WP(MD) 10181/2013, 10051 and 16052/2003 decided the issue. The relevant paragraphs are extracted hereunder;

"23. Also, in the present case, neither the Equivalence Committee nor the Government Orders in G.O.Ms.Nos.72, dated 30.04.2013 and 117, dated 02.07.2013, confined the validity of the degree obtained by the candidates to operate prospectively, therefore, as per the above judgments, when the vested rights are created from the date of their acquisition of equivalent degrees, the respondents cannot take a stand that the degrees

obtained by the petitioners will only have prospective effect from the date of issuance of Equivalence Certificate. When both the Equivalence Committee and the Government Order have consistently not mentioned the effect of the validity of the degree, it is not proper to hold prospective by any one, more so, by the Court. That apart, a degree or a certificate issued by any University or competent educational authorities always have the effect on par with a decree issued by a competent civil court. Besides, it is well settled legal position that even an executing court cannot go behind its decree and this principle will mutatis mutandis undoubtedly apply to the case on hand as well.

24. It must be stressed here that fairness demands that no court can afford to have more than one view on one or the same issue; lest, there will be inconsistency. Consistency and Uniformity are the basic virtues inherent in every court proceedings. The law is meant to protect people from inconsistency bred by any legal confusion and confrontation. When two of the learned single Judges' orders have not been addressed nor overruled on the vital point, we are duty-bound to iron out the inconsistency to have uniformity and consistency on the issue involved. To uphold the 'one court-one view' principle, in turn, to restore the consistency and uniformity, we hereby hold that the view taken in Geetha's case is incorrect, therefore, it is over-ruled.

25. In view of the above settled position and for the foregoing reasons, we hold that the equivalence certificate issued by the committee constituted by the Government declaring that the degrees obtained from one University is equivalent to the degrees obtained from yet another University cannot be held to be only prospective in operation but will have its effect and validity right from the date of issuance, therefore, with due respect to the Hon'ble Division Bench, the view taken in N.Geetha's case is incorrect. Accordingly, the reference is answered.

Registry is directed to place all matters before the learned single Judge for disposal on merits."

6. In the light of the decision of the Hon'ble Full Bench of this Court cited supra, 2nd respondent is directed to consider the writ petitioner's representation dated 15.04.2007 and pass orders on merits and in accordance with law, as expeditiously as possible, within a period of twelve weeks from the date of receipt of a copy of this order.

With the above directions, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

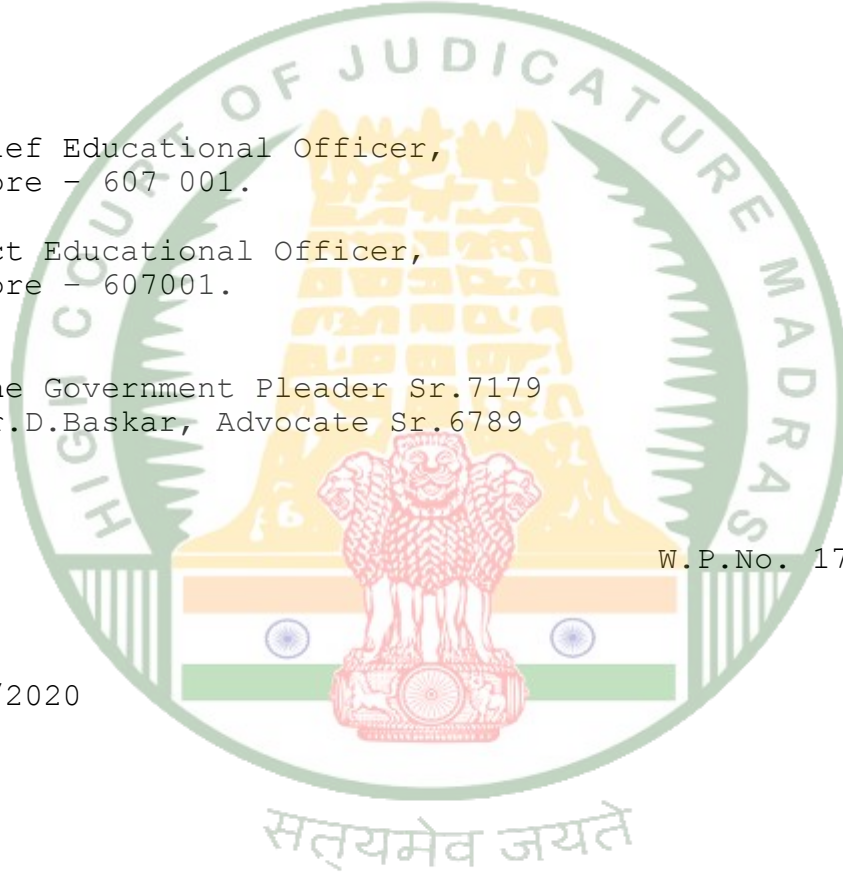
To

1. The Chief Educational Officer,
Cuddalore - 607 001.
2. District Educational Officer,
Cuddalore - 607001.

+lcc to the Government Pleader Sr.7179
+lcc to Mr.D.Baskar, Advocate Sr.6789

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srg 16/03/2020



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