



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.12307 of 2011

and

M.P (MD)No.1 of 2011

WEB COPY

K.Karuppasamy

... Petitioner

Vs.

1.The Secretary,
K.Natarajapillai Memorial,
Madurai Pillaimar Sangam Higher
Secondary School,
Sammattipuram,
Madurai - 625 010.

2.The District Educational Officer,
Madurai.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to give effect to the petitioner's promotion as B.T.Assistant with effect from 01.10.1997 and to pay the petitioner the consequential arrears arising thereon within the time stipulated by this Court and granting such other and further relief.

For Petitioner : Mr.K.Muthumalai

For Respondent-1 : Mr.M.Mohammed Rafi
For M/s.Ajmal Associates

For Respondent-2 : Ms.S.Srimathy
Spl.Govt.Pleader

O R D E R

The relief sought for in the present writ petition is to direct the respondents to give effect to the petitioner to promote him, as B.T.Assistant, with effect from 01.10.1997 and pay the petitioner arrears arising thereof within a stipulated period.

2. The first respondent school is governed by the Tamil Nadu Private Schools Regulation Act. The petitioner joined in the first respondent school, as Junior Assistant in the year 1974. He passed the B.Ed., Course and B.Sc. Degree. The petitioner became qualified for appointment as B.T.Assistant. The claim of the writ petitioner is that he possessed the requisite qualifications of B.Sc., B.Ed., and therefore, he must be given preference, for appointment in the post of B.T.Assistant. One Smt.R.Saraswathi retired on 31.09.1997



and the vacancy caused by the retirement of Saraswathi in Science subject is the permanent vacancy. The petitioner states that he was fully qualified during the relevant point of time and he should be appointed in the post of B.T.Assistant, Science, in the said retirement vacancy.

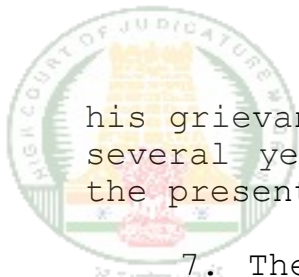
WEB COPY

3. The petitioner states that the first respondent appointed him as B.T.Assistant in the Science subject in November, 1997 and the fact was communicated to the 2nd respondent. The petitioner was allowed to sign in the attendance register. He was handling the Science subject. However, his appointment was not approved by the 2nd respondent. In April 2004, the petitioner was promoted as B.T.Assistant to handle the Science subject, with effect from 04.06.2004 and thereafter, he became B.T.Assistant and accordingly, he continued in the post of B.T.Assistant in a permanent vacancy caused by the retirement of Smt.R. Saraswathi, in the first respondent School.

4. The grievances of the writ petitioner is that though he was appointed by the 1st respondent, as B.T.Assistant, in November, 1997, his appointment was approved only in the year 2004. Thus, he constrained to file the present writ petition, seeking promotion as B.T.Assistant, with effect from 01.10.1997.

5. The learned Special Government Pleader appearing on behalf of the 2nd respondent opposed the contentions by stating that the first respondent school is an aided school. Thus, prior permission to fill up- the vacancy is the mandatory requirement. The first respondent had not obtained any such prior permission during the year 1997. Thus, the competent authority had not approved the appointment of the writ petitioner from the year 1997. However, after following the procedures and on receipt of the proposal, the appointment of the writ petitioner, in the post of B.T.Assistant, was approved from the year 2004 onwards. Thus, there is no irregularity in not granting approval from the year 1997 onwards.

6. This Court is of the considered opinion that the writ petitioner has not produced the order of appointment made by the first respondent in the year 1997. It is not made clear that whether the proposal submitted by the first respondent in the year 1997 was kept pending or some orders were passed. In the absence of any documents to establish such factum, this Court cannot consider the case of the writ petitioner for retrospective approval from the year 1997 onwards. The writ petitioner has not produced nor established that his appointment was validly made during the year 1997, due to the retirement of Smt.R.Sarawathi. This apart, the petitioner claims that he was appointed as B.T.Assistant in the year 1997 and he continued in the said post as such. However, his appointment in the post of B.T.Assistant was approved in the year 2004. Even thereafter, he had not approached the higher authority



his grievances. No action has been taken by the writ petitioner for several years. Finally, on the verge of his retirement, he filed the present writ petition at the age of 57 years.

7. The employees are bound to redress their grievances in the manner known to law within a reasonable period of time. In the present case, the relief sought for in the present writ petition is to give effect to the petitioner to promote, as B.T.Assistant, with effect from 01.09.1997. The fact remains that he was regularly appointed and his appointment was approved in the year 2004. Even thereafter, he waited for about 7 years and filed the present writ petition on 28th October, 2007. Thus, the writ petition is liable to be rejected on the ground of laches. This apart, the appointment of the writ petitioner was not properly made and the first respondent school had not obtained any prior permission before filling up the permanent vacancy. In view of all these factors, the writ petitioner has not established any acceptable grounds for the purpose of considering the relief as such sought for in the present writ petition. Accordingly, this writ petition is devoid of merits and stands dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK

To

The District Educational Officer,
Madurai.

W.P. (MD)No.12307 of 2011
16.10.2020

SSS(CO)
AP(05/11/2020) 3P 2C