



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2020

CORAM:

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.[MD]No.10241 of 2019
and
W.M.P(MD) No.7908 of 2019

F.Wesley Solomon Immanuel
P.G.Assistant
St.John's Higher Secondary School,
Palayamkottai,
Tirunelveli District.

... Petitioner

Vs.

1. The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
2. The District Educational Officer,
Tirunelveli, Tirunelveli District.
3. The Correspondent,
St.John's Higher Secondary School,
Palayamkottai,
Tirunelveli District.

... Respondents

PRAYER : This Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the record relating to impugned order in Na.Ka.No.14/A4/2019 dated 15.02.2019 of the second respondent herein and quash the same and consequently direct the directing the respondents herein to approve the promotion order of petitioner as Post Graduate Assistant (History) w.e.f 02.06.2018 with all other attended benefits to the petitioner.

For Petitioner	: Mr.T.Pon Ramkumar
For R-1 and R-2	: Mrs.S.Srimathy
	Special Government Pleader

O R D E R

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.



2.This Writ Petition has been filed challenging the impugned order dated 15.02.2019 whereby the second respondent refused to grant approval of appointment of the petitioner by stating that the third respondent has to enclose the copy of the relieving order of one Mr.P.David with approval of the second respondent.

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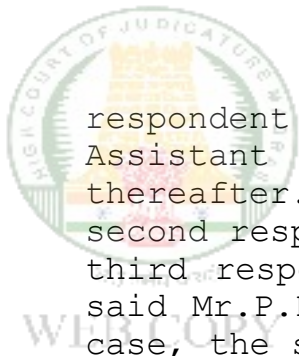
3.According to the petitioner, the said Mr.P.David retired from service with effect from 26.09.2017. However, no details available with regard to his retirement and relieving order issued by the third respondent School. Therefore, the petitioner is not in a position to furnish the same. In fact, the relieving order of the said Mr.P.David is only available with the second respondent. No such order is available with the third respondent School. Therefore, he contended that appropriate directions may be issued to approve the promotion post of Post Graduate Assistant (History) by quashing the impugned order.

4.On the other hand, the learned Special Government Pleader appearing for the respondents 1 and 2 would submit that by virtue of the impugned order, the third respondent's request to approve the promotion of the petitioner as PG Assistant (History), was not rejected and it was only returned for the production of the relieving order of the said Mr.P.David as approved by the second respondent. After taking appropriate instructions, she would submit that the second respondent has not pass any relieving order as stated by the petitioner. She would fairly submit that appropriate direction may be issued to the third respondent to submit the relieving order of the said Mr.P.David, within a period of two weeks. After receipt of the same, the second respondent will pass appropriate orders.

5.Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 and 2.

6.The petitioner was promoted as PG Assistant (History) in the place of Mr.P.David, who retired from service with effect from 26.09.2017. Originally he was retired from service on 26.09.2015 whereas two years extension was granted and subsequently, he retired from service on 26.09.2017. According to the petitioner, the said Mr.P.David relieved from service and the relieving order is available only with the second respondent. Therefore, there is no need for the second respondent to pass impugned order directing the petitioner to submit the said relieving order. On the other hand, it is submitted by the learned Special Government Pleader that the relieving order is not with second respondent.

7.In view of the above, the third respondent is directed to forward a copy of relieving order of the said Mr.P.David with the approval of the second respondent, if the same is available with them, to the second respondent within a period of two weeks from the date of this order. In which case, the second



respondent shall consider and grant approval for the promotion of PG Assistant (History) to the petitioner within a period of six weeks, thereafter. In case, if the relieving order with the approval of the second respondent is not available with the the third respondent, the third respondent is directed to forward the relieving order of the said Mr.P.David to the second respondent for his approval. In such case, the second respondent shall grant approval to relieve the said Mr.P.David and consider the petitioner for the promotion of PG Assistant (History) within a period of six weeks, thereafter.

8.With the above directions, this Writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

// True Copy //

/ /2021
Sub Assistant Registrar(CS-)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:-

1. The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
2. The District Educational Officer,
Tirunelveli, Tirunelveli District.
3. The Correspondent,
St.John's Higher Secondary School,
Palayamkottai,
Tirunelveli District.

+ 1 CC TO Mr.T.PON RAMKUMAR, ADVOCATE IN SR No. 25892

CP

TE : 05/01/2021 : 3P/5C

W.P.[MD]No.10241 of 2019
15.12.2020