



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.A(MD)No.966 of 2020

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S.Nicolas Prabu

... Appellant /Petitioner

Vs.

1.The District Educational Officer,
Tiruchirappalli District.

2.The President,
The Congregation of the Brothers of the Sacred Heart of Jesus,
Palayamkottai, Tirunelveli District.

3.The Provincial Supervisor,
Br.Edward Francis SHJ,
17, Khadi Board Colony,
Trichy - 620 021.

4.The Correspondent,
Lawrence High School,
Mullipatti, Mathur Post,
Tiruchirappalli - 622 515.

5.The Head Master,
St.Joseph Higher Secondary School,
Muthupettai, Ramanathapuram.

6.Mr.Bro.Kevin

... Respondents

PRAYER: The Writ Appeal is filed under Clause 15 of Letters Patents Act, to set aside the orders passed in W.P(MD)No.6807 of 2014, dated 16.03.2020 by allowing this writ appeal.

Prayer in WP(MD). 6807/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 to 4 to reinstate the petitioner as Head Master in the 4th respondent school with full back wages, continuity of service and all other attendant benefits within the period stipulated by this Honble Court.



For Appellant :Mr.A.Haja Mohideen

For Respondent :Mrs.S.Srimathy,
No.1 Special Government Pleader

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JUDGMENT

[Judgment of the Court was delivered by **N.KIRUBAKARAN, J.**]

This writ appeal has been filed to set aside the dismissal order, dated 16.03.2020, passed in the writ petition in W.P(MD) No.6807 of 2014, which was filed by the appellant/writ petitioner, seeking for a mandamus, to direct the respondents to reinstate him as Head Master with full back wages in the 4th respondent's School.

2.According to the appellant, he was appointed as P.G. Assistant on 16.06.2005 in the 4th respondent's School. Subsequently, he was promoted as Head Master in the year 2009 and thereafter, he was de-promoted as Teacher and posted in the 5th respondent's School on 05.06.2013. Accordingly, on 27.06.2013, the appellant reported for duty before the 5th respondent School and he was instructed to take different subject for different classes. Hence, the appellant approached the respondents 2 and 3 for his reinstatement in the 4th respondent School. In the mean time, the 6th respondent was appointed in the place of the appellant in the 4th respondent School. Therefore, the writ petition came to be filed seeking reinstatement as Head Master and for payment of back wages.

3.The case was contested stating that the appellant was appointed in a non-sanctioned post. In view of that, the appellant / writ petitioner cannot maintain the writ petition and the learned Single Judge dismissed the writ petition with a liberty to the appellant / writ petitioner to approach the School Management.

4.Heard Mr.A.Haja Mohideen, learned Counsel appearing for the appellant and Mr.S.Srimathy, learned Special Government Pleader appearing for respondent No.1.

5.Though the learned Counsel for the appellant argued that the writ petition is maintainable as against the private school, this Court is of the view that the writ is maintainable provided, if the appellant was appointed in a sanctioned post. Admittedly, the appellant was appointed in a non-sanctioned post and therefore, the appointment of the appellant does not have any legal sanctity in the eye of law. If at all any relief has to be sought, it can be sought only as against the Private School, which appointed the appellant.



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6. In the light of the above discussion, this writ appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

dsk

To

1. The District Educational Officer,
Tiruchirappalli District.

W.A(MD)No.966 of 2020

02.11.2020

MR (CO)

NR (26/11/2020) 3P : 2C