



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2020

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.15481 of 2014
and M.P. (MD)No.1 of 2014

G.Jeyapal

... Petitioner

Vs.

- 1.The State of Tamilnadu,
Rep.by its Secretary to Government,
School Education Department,
Fort St.George, Chennai-9.
- 2.The Director of School Education,
College Road, Chennai-6.
- 3.The Chief Educational Officer,
Madurai District, Madurai.
- 4.The Head Master,
Government Girls High School,
Peraiyur, Madurai-625 703.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents herein to regularize and absorb petitioner as full time vocational Instructor Grade II.

For Petitioner : Mr.M.S.Sureshkumar

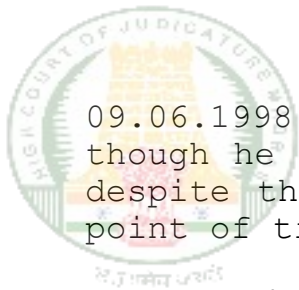
For Respondents : Mr.J.Gunaseelan Muthiah,
Additional Government Pleader.

ORDER

The relief sought for in the present writ petition is to direct the respondents to regularize and absorb petitioner as full time vocational Instructor Grade II.

2.The petitioner states that he was appointed as part-time consolidated pay Vocational Instructor Grade II by Parents Teachers Association. The petitioner was working continuously from

<https://hcservices.ecourts.gov.in/hcservices/>

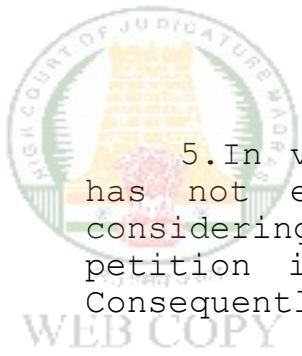


09.06.1998 onwards. The grievance of the writ petitioner is that though he was working continuously, his service was not regularized despite the fact that vacancies were available during the relevant point of time in the Government Schools.

3.This Court is of the considered opinion that regularization or permanent absorption cannot be granted in violation of rules in force. Regularization is to be granted to the employees only if the initial appointments are made in accordance with the rules and by following the procedures contemplated. Equal opportunity in public employment is a Constitutional mandate. Thus, appointments made through back-door method cannot be a ground to seek regularization and such back-door appointments if regularized, then the right of the equality is denied to all the candidates, who are all aspiring to secure public employment through open competitive process. Therefore, the equality clause enunciated in the Constitution is to be followed at the time of dealing the irregular appointments. The appointment made irregularly or illegally cannot be regularized nor be confirmed.

4.This being the principles to be followed, the facts stated by the respondents reveals that the writ petitioner was not appointed in accordance with the rules and he was initially appointed by the Parents Teachers Association, which is an Association constituted for the welfare of the parents as well as the students studying in a particular School. The Parents Teachers Association is not a Authority to appoint Teachers in Government Schools. The said position is well enumerated in paragraph No.7 of the counter, which is extracted hereunder:-

"7.It is submitted that the students in the said school were suffering without any instructor. Therefore, under the above said circumstances, Parent Teachers Association of the school took steps and made temporary arrangements permitting the petitioner to conduct classes. The petitioner was also paid through the parents Teachers Association fund temporarily. Therefore, it is not correct to say that the petitioner should be appointed as part time instructor, when such appointment was not made in favour of the petitioner. When the petitioner was not appointed regularly by the competent authority the petitioner cannot compare himself with the persons appointed on regular basis. The petitioner having not appointed by any appointment order, but he was appointed only on stop gap arrangement by the parent teachers association, the petitioner cannot make any grievance that his appointment should be considered as against any sanctioned post."



5. In view of the facts and circumstances, the writ petitioner has not established any acceptable ground for the purpose of considering the relief sought for and accordingly, this writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Gns

To

1. The Secretary to Government,
School Education Department,
Fort St. George, Chennai-9.
2. The Director of School Education,
College Road, Chennai-6.
3. The Chief Educational Officer,
Madurai District, Madurai.
4. The Head Master,
Government Girls High School,
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+1 CC to SGP (SR-21729[F] dated 10/11/2020)

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NR (19/11/2020) 3P : 6C