

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.5364 of 2021

S.Sivakumar

... Petitioner

-vs-

1. The Chairman,
Teachers Recruitment Board,
College Road, Near Sankara Nethralaya,
Subba Road Avenue, Nungambakkam,
Chennai - 600 006.
2. The Director of School Education,
Department of School Education,
DPI Campus, Nungambakkam,
Chennai - 600 006.
3. Chief Educational Officer,
Nilgiris, Nilgiris District.
4. District Educational Officer,
District Educational Office,
Gudalur, Nilgiris District 643 211. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 3rd respondent to reconsider the case of the petitioner and put him back in the post of physical Educational Teacher as per appointment order, dated 04.11.2020 issued by the 3rd respondent.

For Petitioner : Mr.S.T.Varadarajulu

For R1 : Mr.C.Munusamy, (for R1)
Special Government Pleader

For R2 to R4 : Mr.P.Raja, Government Advocate

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O R D E R

This Writ petition is filed, seeking a direction to the 3rd respondent to reconsider the case of the petitioner and put him back in the post of physical Educational Teacher as per appointment order, dated 04.11.2020 issued by the 3rd respondent.

2. Mr.C.Munusamy, learned Special Government Pleader takes notice for R1 and Mr.P.Raja, learned Government Advocate takes notice for R2 to R4. By consent, final orders are passed in the Writ Petition at the admission stage.

3. The brief facts of the case are that the petitioner has got two Government Jobs namely Lab Assistant in Government High School, Bakkana, Nilgiris District and Physical Education Teacher at Government Higher Secondary School, Nilgiris under Ex-Serviceman quota and since the same is improper under G.O.No.89, dated 12.08.2015, the 3rd respondent asked the petitioner to continue in the earlier post of Lab Assistant, after he joined in the second post.

4. The learned counsel for the petitioner submitted that he has produced the Ex-serviceman Certificate during the Certificate Verification for both the posts and after being relieved from the former post, he joined as Physical Education Teacher on 05.11.2020. Hence, he is entitled to continue in the second post.

5. According to the learned counsel for the petitioner, the petitioner has submitted a representation dated 24.11.2020 to reconsider his appointment in the second post viz., Physical Education teacher, but, the same is yet to be disposed of by the respondents. Learned counsel submitted that it would suffice, if the said representation made by the petitioner is directed to be considered and disposed of by the respondents on merits.

6. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the 2nd respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 2nd respondent herein to consider the representation preferred by the petitioner dated 24.11.2020, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 30 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 2nd respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 24.11.2020 and this order, to the 2nd respondent forthwith;

v) The 2nd respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

vum

To

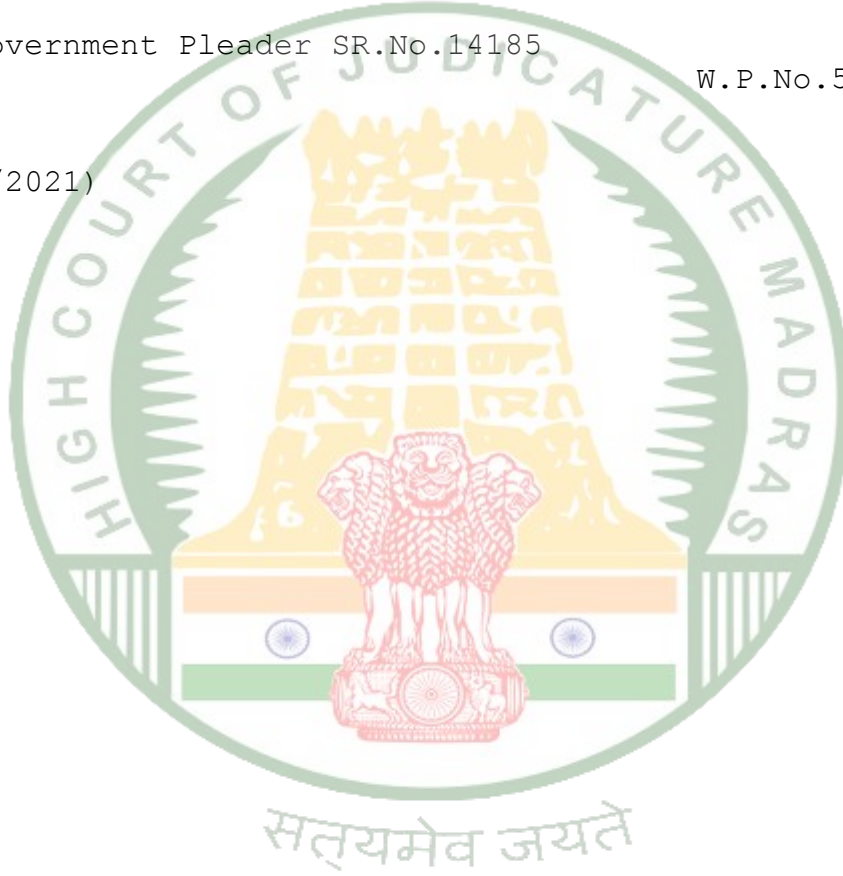
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+1cc to Government Pleader SR.No.14185

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GMI (CO)
GMY (15/04/2021)



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