

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.7271 of 2014

M.Vijayasarithi

... Petitioner

Vs

1.The District Educational Officer,
Chennai South, Egmore,
Chennai - 600 008.

2.The Secretary,
C.D.Nayagam Theyagaraya Nagar
Higher Secondary School,
Venkatanarayana Road,
T.Nagar, Chennai - 600 017.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the 1st respondent to approve the appointment of the petitioner to the post of B.T. Assistant Science in the 2nd respondent school from the date of initial appointment on 17.04.2009 instead of 01.06.2009 with consequential and other attendant benefits including revision of pay scale for the petitioner by considering the representation submitted by the petitioner dated 12.09.2013 as well as the representation submitted by the 2nd respondent school dated 08.11.2013 within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr.G.Sankaran

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

ORDER

The relief sought in this writ petition is to direct the 1st respondent to approve the appointment of the petitioner to the post of B.T. Assistant (Science) in the 2nd respondent school from the date of initial appointment on 17.04.2009 instead of 01.06.2009 with consequential benefits including revision of pay scale by considering the representation submitted by the petitioner dated 12.09.2013 as well as the representation submitted by the 2nd respondent school dated 08.11.2013 within a time frame to be fixed by this Court.

2. According to the petitioner, he was appointed as B.T. Assistant (science) in the second respondent school on 17.04.2009 in the sanctioned post, as per the permission accorded by the Chief Educational Officer, Chennai vide proceedings dated 12.03.2009. Thereafter, the second respondent forwarded a proposal seeking approval of the appointment of the petitioner on 25.04.2009, which was approved by the first respondent vide proceedings dated 27.07.2009, with effect from 01.06.2009, instead of his initial date of appointment, stating that there was no sufficient work load towards the end of the academic year 2008-09. It is the grievance of the petitioner that when he was appointed in the sanctioned post based on the permission granted by the Chief Educational Officer, Chennai and the post is within the cadre strength considering the teacher-student ratio indicating the work load of the school, the petitioner is entitled for approval of appointment from the date of his initial appointment i.e., from 17.04.2009. It is further stated that due to postponement of approval of his appointment to 01.06.2009, the petitioner sustained huge monetary loss, since his pay was fixed in the revision of pay scale with basic pay of Rs.9,300/-, as per the recommendation of the Sixth Pay Commission. Stating so, he made a representation dated 12.09.2013 to the first respondent. The second respondent school also submitted a representation dated 08.11.2013 to the first respondent in this regard. Finding no response on the said representations, the petitioner has come up with this writ petition for the aforesaid relief.

3. Upon notice, the first respondent filed a detailed counter affidavit, inter alia stating that the second respondent has appointed the petitioner in a hasty manner at the fag end of the academic year with effect from 17.04.2009 for the vacancy fell on 04.06.2007, however, the first respondent after considering the Act and Rules and other procedure in force, has rightly approved the appointment of the petitioner with effect from 01.06.2009. It is further stated therein that the sixth pay commission was given effect from 01.01.2006 and the appointment of the petitioner was approved only on 01.06.2009 and hence, there was no wrong in fixation of pay in the revised scale of pay.

4. The averments so made in the counter affidavit have been seriously opposed by the learned counsel for the petitioner. He further submitted that in similar circumstances, this Court by order dated 09.07.2013 passed in WP.No.18481 of 2013, directed the concerned respondents to approve the appointment of the petitioner therein from the date on which vacancy arises and fix the appropriate pay pursuant to the appointment of the petitioner therein with effect from the date of his initial

appointment. Hence, the learned counsel submitted that the case of the petitioner may be directed to be considered in the light of the said order.

5. On the other hand, the learned Special Government Pleader appearing for the first respondent fairly submitted that the first respondent would consider the representation of the petitioner and pass orders, on merits, within a time frame to be stipulated by this Court.

6. Considering the facts and circumstances of the case and having regard to the submissions now made by the learned counsel on either side, this Court directs the first respondent to consider the representation of the petitioner dated 12.09.2013, if not already considered and pass appropriate orders, on merits and in accordance with law and also in the light of the representation dated 08.11.2013 submitted by the second respondent as well the order dated 09.07.2013 passed by this Court in WP.No.18481 of 2013, within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. Accordingly, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

msv

To

1. The District Educational Officer,
Chennai South, Egmore,
Chennai - 600 008.

2. The Secretary,
C.D.Nayagam Theyagaraya Nagar
Higher Secondary School,
Venkatanarayana Road,
T.Nagar, Chennai - 600 017.

+1cc to Mr.G.Sankaran, Advocate, S.R.No.5518

+1cc to Mr.P.R.Kovilan, Advocate, S.R.No.6141

+1cc to the Government Pleader, S.R.No.5922

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PCH (CO)
KM(27/04/2021)



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