



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.16393 of 2019

and W.M.P. (MD)Nos.13057 & 13059 of 2019

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A.Arulraj

... Petitioner

vs.

- 1.The State of Tamil Nadu,
Rep. By the Secretary,
Department of School Education,
St. George Fort, Secretariat,
Chennai - 9.
- 2.The Director,
School Education (Higher Secondary)
Directorate of School Education,
College Road, D.P.I. Compound,
Chennai - 6.
- 3.The Chief Education Officer,
O/o. the Chief Education Officer,
Tirunelveli District - 627 001.
- 4.The District Educational Officer,
O/o. The District Educational Officer,
Tirunelveli District - 627 003.
- 5.St.Xavier's Higher Secondary School,
Rep. By the Correspondent,
Palayamkottai,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na.Ka.No.743/A2/2018 dated 18.05.2018 on the file of the respondent No.4 and quash the same as illegal and consequently directing the respondent No.3 to approve the appointment of the petitioner as B.T.Assistant in History with the respondent No.5 school from 01.07.2015 onwards and disburse the consequential monetary benefits.

For Petitioner : Mr.I.Pinaygash

For Respondents : Mr.P.Subbaraj,
Govt. Advocate for R1 to R4
Mr.K.Ragatheesh Kumar for
M/s.Isaac Chambers for R5



ORDER

The petitioner has filed this Writ Petition challenging the order of the fourth respondent in Na.Ka.No.743/A2/2018 dated 18.05.2018 and for a consequential direction to the third respondent to approve the appointment of the petitioner as B.T.Assistant in History with the fifth respondent school from 01.07.2015 onwards and disburse the consequential monetary benefits.

2. According to the petitioner, he was appointed as Secondary Grade Teacher in the fifth respondent school on 07.07.1999. The petitioner obtained B.Lit U.G. Degree in the year 1996 and obtained M.A.Tamil Degree in the year 1999. The petitioner sought permission in the year 2010 for acquiring B.Ed., degree, based on the B.Lit U.G. Degree. The fifth respondent school forwarded the proposal to the fourth respondent. Before the proposal was approved, the petitioner completed the B.Ed Course in the year 2012. Thereafter, the petitioner sought permission in the year 2013 for acquiring additional qualification in B.A., (History). Before the same was approved, the petitioner acquired B.A., (History) in the year 2015. On 01.07.2015, the petitioner was promoted as B.T.Assistant (History) in the fifth respondent school. The fifth respondent school sent a proposal to the fourth respondent for approval of appointment of the petitioner to the post of B.T.Assistant (History). The fourth respondent did not approve the same for want of ratification order. The fifth respondent sent a proposal to the fourth respondent to approve the petitioner's appointment to the Post of B.T.Assistant (History) from 01.07.2015 onwards, by way of passing ratification order. The fourth respondent, by the impugned order dated 18.05.2018, rejected the proposal on the ground that the petitioner did not obtain prior permission for acquiring additional qualification, viz., B.A., (History) and B.Ed., degree. Hence, the petitioner has come out with the present Writ Petition.

3. The learned counsel appearing for the petitioner submitted that as per G.O.Ms.No.101 School Education (Budget-1) Department, dated 18.05.2018, the competent authority, to give prior permission for acquiring higher qualification is the Correspondent, i.e., fifth respondent school. The fourth respondent has to approve the proposal sent by the fifth respondent. The learned counsel for the petitioner contended that in the present case, the fifth respondent granted permission and sent proposal to the fourth respondent for approval. The learned counsel for the petitioner submitted that the fifth respondent has granted approval to the petitioner for B.A., (History) degree through his Letter No.45/A7/2017, dated 21.04.2017 only after strictly warning the petitioner. The learned counsel for the petitioner submitted that in the very same school, the fourth respondent has granted ratification order for acquiring additional qualification to three other Teachers, those who did not obtain prior permission to their studies and prayed for allowing the Writ



Petition.

4. The respondents 1 to 4 have filed counter affidavit. The learned Government Advocate submitted that the three Teachers referred to by the petitioner have acquired additional qualifications, before issuance of Government Letter (1D) No.356, School Education Department, dated 02.11.2007, by the Government. The petitioner acquired additional qualification, without obtaining prior permission, only after issuance of Government Letter (1D) No.356, School Education Department, dated 02.11.2007, by the Government. Therefore, the rejection of proposal of the fifth respondent for ratification and approval by the fourth respondent is valid and prayed for dismissal of the Writ Petition.

5. Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the respondents 1 to 4 and the learned counsel appearing for the fifth respondent and perused the materials available on record carefully.

6. From the above rival submissions and materials on record, it is seen that while the petitioner was working as a Secondary Grade Teacher, he completed B.A. (History) and B.Ed. Degree courses. For acquiring B.A., (History), the petitioner sought prior permission from the fifth respondent school. The fifth respondent school granted permission and sent a proposal to the fourth respondent for approval in the year 2013. Before the fourth respondent approving the proposal sent by the fifth respondent, the petitioner joined, B.A., (History) in the year 2013 and completed the same in the year 2015. Till the petitioner acquired the B.A., (History) qualification, the fourth respondent has not passed any order on the proposal sent by the fifth respondent. However, on 21.04.2017, the fifth respondent gave permission, vide Letter No.45/A7/2017, for his studies in B.A.History, after strictly warning the petitioner. Therefore, the findings of the fourth respondent, rejecting the proposal of the fifth respondent school for approval of appointment of the petitioner as B.T. Assistant (History) on the ground that the petitioner did not possess prior permission to study B.A. (History) and B.Ed., Course, is warranting interference.

7. For the above reason, the impugned order dated 18.05.2018 is liable to be set aside and accordingly, the same is hereby set aside. The third respondent is directed to consider the proposal sent by the fifth respondent school for approval of the appointment of the petitioner as B.T.Assistant (History) and pass orders within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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8. With the above direction, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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 Secretary,
State of Tamil Nadu,
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+1 CC to M/s.ISACC CHAMBERS, Advocate (SR-22063[F] dated 12/07/2021

+1 CC to M/s.SPL GP (SR-22114[F] dated 12/07/2021)

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RKN (29.07.2021) 4P 7C