



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

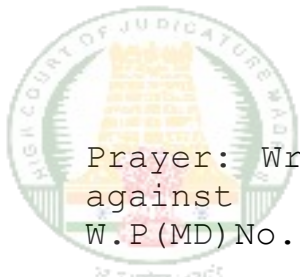
W.A(MD)Nos.1194, 1195 and 1196 of 2017

and

C.M.P(MD)No.8322 and 8324 of 2017

W.A(MD)No.1194 of 2017:

- 01.The State of Tamil nadu,
Represented by the Secretary to Government,
Education Department,
Fort St. George,
Chennai - 600 009.
- 02.The Director of Teacher Education,
Research and Training, College Road,
Chennai - 600 006.
- 03.The Director of School Education,
College Road,
Nungambakkam,
Chennai - 6.
- 04.The District Educational Officer,
Aruppukottai Taluk,
Virudhunagar District.
- ... Appellants / Respondents 1 to 4
- Vs.
- 01.R.Vinoth Kumar ... 1st Respondent/writ petitioner
- 02.The Secretary,
Hindu High School,
Gopalapuram, Palayampatty Post,
Virudhunagar District.
- 03.The Principal,
Sri Ramakrishna Mission,
Vidyalaya Maruthi College of Physical Education,
Sri Ramakrishna Vidyalaya Post
Periyanaickenpalayam,
Coimbatore - 641 020.
- ...2nd and 3rd respondents/respondents 5 and 6



Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 18.01.2017 passed in W.P(MD)No.8115 of 2011.

Prayer in WP(MD). 8115/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 4th respondent to approve the appointment of the petitioner as Physical Education Teacher with effect from the date of initial appointment i.e., from 24.05.2010 and consequently pay all arrears of salary and attendant, monetary benefits etc.

For Appellants : Mrs.S.Srimathy,
Special Government Pleader

For R-1 : Mr.V.R.Venkatesan

For R-3 : Mr.R.Devaraj
(R2 dispense with vide order dt.17/07/2018)

W.A(MD)Nos.1195 and 1196 of 2017:

01.The State of Tamil Nadu,
Represented by the Secretary to Government,
Education Department,
Fort St. George,
Chennai - 600 009.

02.The District Educational Officer,
Aruppukottai Taluk,
Virudhunagar District.

... Appellants in both W.As/
Respondents 1 and 2

.vs.

01.R.Vinoth Kumar

....1st respondent in both W.As/
writ petitioner

02.The Secretary,
Hindu High School,
Gopalapuram, Palayampatty Post,
Virudhunagar District

... 2nd respondent in both W.As/
3rd respondent



Common Prayer: Writ Appeals filed under Clause 15 of the Letters Patent, against the order dated 18.01.2017 passed in W.P(MD)Nos.4165 and 8790 of 2012 respectively.

Prayer in WP(MD). 4165/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of mandamus, directing the 3rd respondent to permit him to continue the work as Physical Education Teacher and consequently allow him to put his signature in the Attendance Register maintained by the 3rd Respondent.

Prayer in WP(MD). 8790/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent s Impugned Order dated 08.06.2012 and quash the same and directing the Respondents No.1 and 2 to approve the appointment of the Petitioner as Physical Education Teacher in the 3rd respondent School and consequentially to pay salary and all attendant and monetary benefits from the date of his appointment and further permit him to continue the work as Physical Education Teacher.

For Appellants : Mrs.S.Srimathy,
Special Government Pleader

For R-1 : Mr.V.R.Venkatesan
(in both Appeals)

(R2 dispense with vide order dated 17/07/2018)

COMMON JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

The above Writ Appeals are filed against the order dated 18.01.2017 passed in W.P(MD)Nos.8115 of 2011, 4165 and 8790 of 2012 respectively.

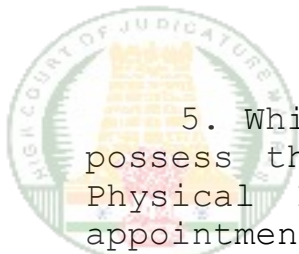
2. The Writ Petitioner, who is the first respondent in the above appeals had passed 12th standard in the year 2007. Thereafter, he had joined Ramakrishna Mission Vivekananda University, Periyannayakkanpalayam, Coimbatore, which offered D.P.Ed., certificate i.e., Diploma in Physical Education, which is a two years course. The qualification to join the said course is, a pass in Plus Two. The Writ Petitioner had completed the two years course of Diploma in Physical Education on 26.04.2009 and the provisional certificate was also issued on the same date. Based on the same, the writ petitioner had applied for the post of Physical Education Teacher with the second respondent School. An



interview was conducted on 17.05.2010 and he was selected and was directed to produce all the necessary certificates. Based on the certificate verification, the second respondent herein, issued an order of appointment on 24.05.2010. Since the approval for the appointment to the post of Physical Education teacher is not given by the fourth appellant the District Educational Officer, Aruppukottai Taluk, Virudhunagar District, no payment is made from the date of the appointment as salary. The fourth appellant informed that the second appellant has not approved the appointment and the approval proceedings are pending, due to which, salary could not be paid to the writ petitioner. While so, the second respondent school herein had sent a letter to Ramakrishna Mission Vivekananda University to furnish documents regarding the recognition of the University from the Tamil Nadu Government.

3. In response, the said University vide letter dated 28.12.2010 had replied that the courses D.P.Ed, B.P.Ed, M.P.Ed, were recognized and they have obtained permission from National Council for Teacher Education (NCTE), which in turn has sent a proposal to Tamil Nadu Government for its recommendation and approval. Subsequently, the University has obtained recognition from the State Government and produced the proceedings with regard to the same.

4. Further, the University had mentioned in the letter dated 28.12.2010 that the Course of D.P.Ed., was conducted by the Maruti Physical Education College for several years and the same was approved in Directorate of Teacher Education Research and Training by the State of Tamilnadu. The said Maruti Physical Education College is affiliated with Ramakrishna Mission Vivekananda University. Since the said University is approved by the State of Tamil Nadu, the second appellant was requested to approve the appointment of the first respondent/writ petitioner. The Writ Petitioner also obtained information through the Public Information Officer stating that the said University is a deemed University, which does not come under the control of State Government. The Writ Petitioner also obtained a communication under the Right To Information Act from the Directorate of Teacher Education Research and Training dated 11.04.2011 that there is no G.O issued stating that the Diploma in Physical Education issued by Ramakrishna Mission Vivekananda University and the Diploma in Physical Education issued by the State Government, are equal. In the meanwhile, the District Educational Officer, Aruppukottai Taluk, had sent a communication to the School on 03.06.2011, in which he had returned all the papers including the request for approving the appointment of the Writ Petitioner on the ground that the qualification possessed by the Writ Petitioner is not suitable to hold the post of P.E.T.(Physical Education Teacher).



5. While the matter stood thus, as the writ petitioner did not possess the requisite educational qualification for the post of Physical Education Teacher, his request for approval of his appointment was returned. Therefore, the Writ Petitioner filed W.P (MD)No.8115 of 2011, seeking a direction to the fourth Appellant to approve his appointment as Physical Education Teacher with effect from the date of initial appointment i.e., from 24.05.2010 and consequently, pay all arrears of salary and other monetary benefits etc., and interim injunction was granted in the said Writ Petition restraining the appellants from terminating the Writ Petitioner. However, in letter No.11387/K1/2011-4 dated 03.01.2012, which was from the Joint Secretary, Education Department, addressed to the school, it is stated that letter No.834/K1/2011 dated 19.04.2011 and Government letter No.1153/K1/2011-1 dated 02.05.2011, are bogus ones produced by the writ petitioner in order to cheat the school for getting job. The Writ Petitioner had specifically contended that the said letters were not submitted by him. However, the approval of appointment of the writ petitioner was rejected on the ground that the writ petitioner had produced the bogus letters to gain employment. Thereafter, the writ petitioner was not allowed to continue. Hence, the writ petitioner filed W.P(MD)No.4165 of 2012, seeking for issuance of a Writ of Mandamus, directing the third respondent School to permit him to continue the work as Physical Education Teacher and consequently, allow him to put his signature in the Attendance Register maintained by them.

6. In fact, the Writ Petitioner had mentioned about the two letters in the affidavit filed in support of the writ petition in W.P(MD)No.8115 of 2011. Without heeding the request of the Writ Petitioner, an FIR (First Information Report) was filed against the Writ Petitioner. Unfortunately, the school had sent a charge-memo on 09.05.2012 framing two charges against the Writ Petitioner. After an enquiry, the impugned order dated 08.06.2012 was passed dismissing the Writ Petitioner from service.

7. Despite the request of the Writ Petitioner to furnish the documents relied on by the management in support of the charges framed against the Writ Petitioner, the second respondent school had not furnished any of the documents. Therefore, the writ petitioner filed W.P(MD)No.8790 of 2012, seeking for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order dated 08.06.2012.

8. All the Writ Petitions were resisted by the appellants contending that the Education Department had carefully scrutinized all the records given by the Writ Petitioner and found them to be bogus. Therefore, the writ petitioner is not entitled for approval of his appointment.



9. The learned Single Judge had discussed all the factual aspects in detail and allowed the Writ Petition. Aggrieved by the same, the above Writ Appeals are filed by the Government and District Educational Officers. The questions that arise for consideration in all the above appeals are:

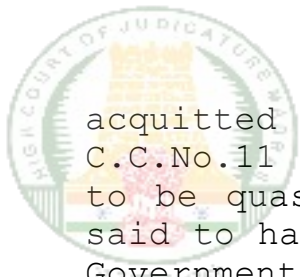
"(i).Whether the appointment of Writ Petitioner can be approved from 24.05.2010?

(ii).Whether the impugned termination order dated 08.06.2012 is to be quashed?"

10. Heard Mrs.S.Srimathy, learned Special Government Pleader appearing for the appellants, Mr.V.R.Venkatesan, learned counsel appearing for the first respondent/writ petitioner and Mr.R.Devaraj, learned counsel appearing for the third respondent University and perused the materials available on record.

11. The admitted facts are that the writ petitioner had studied in Ramakrishna Mission Vivekananda University and obtained the certificate in D.P.Ed. The learned counsel, who appeared for the University submitted that the Institution is recognized and it is functioning even today. It is also not in dispute that the first appellant had permitted the said Institution to continue and impart various courses. It cannot be stated that the qualification obtained by the writ petitioner is not from a recognized Institution.

12. It is also admitted by the learned Special Government Pleader that the Diploma obtained by the writ petitioner is recognized and it is equal to the Diploma in Physical Education issued by the State Government. The main allegation for terminating the Writ Petitioner is with regard to furnishing of letter No.834/K1/2011-1 dated 19.04.2011 and letter No.1153/K1/2011-1 dated 02.05.2011, which are alleged to be bogus letters. In this regard, it would be relevant to advert to the judgement given by the learned Judicial Magistrate, Aruppukottai in C.C.No.11 of 2014, wherein the writ petitioner was arrayed as first accused. After an elaborate trial and consideration of the material facts, it was found that the letters dated 19.04.2011 and 02.05.2011, were not issued by the Educational Department of Tamil Nadu and they are bogus ones. However, it was also found that those letters had got nothing to do with the Writ Petitioner or that he had produced the same for the purpose of securing a job. The Judicial Magistrate had further held that in the absence of any evidence to show that the alleged letters were fabricated only by Writ Petitioner, he was acquitted. The only ground shown in the impugned order dated 08.06.2012, is that the writ petitioner had produced fabricated letters. As the Writ Petitioner was



acquitted after an elaborate trial in the judgment passed in C.C.No.11 of 2014 dated 24.03.2016, the impugned order is liable to be quashed. The said judgement in the said calendar case is said to have attained finality as there was no appeal filed by the Government.

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13. As rightly pointed out by the learned Single Judge, the judgment in C.C.No.11 of 2014, is a direct answer to the impugned order and the same has to be quashed. As the writ petitioner has qualified himself from an Institution approved by Government, he cannot be rejected. If the said Institution from where the writ petitioner had obtained his certificate is not recognized or no approval is granted, it is for the Government to take appropriate action and not to involve the stakeholders to take any risk. The appellants have also not produced any material to show that University/College was not a recognized one and that they are restrained from offering any courses. Therefore, the certificate obtained by the writ petitioner is deemed to be valid and the original appointment given to the writ petitioner cannot be terminated.

14. In view of the above discussion, the common order dated 18.01.2017 passed by the Learned Single Judge is confirmed and the Writ Appeals are dismissed. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

pm

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

01.The Secretary to Government,
State of Tamil nadu,
Education Department,
Fort St. George,
Chennai - 600 009.

02.The Director of Teacher Education,
Research and Training, College Road,
Chennai - 600 006.

03.The Director of School Education,
College Road,
Nungambakkam,
Chennai - 6.

04.The District Educational Officer,
Aruppukottai Taluk,
Virudhunagar District.

+1 CC to SPL GP (SR-10225[F] dated 10/03/2021)

JUDGMENT MADE IN
W.A(MD) Nos.1194 to 1196 of 2017
09.03.2021

KM (19.03.2021) 8P 6C