

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.18134 of 2020

and

W.M.P.Nos.22529 & 22530 of 2020

Fr.S.Joseph Sagayaraj

...Petitioner

vs.

- 1.The Secretary,
Education Department, Chief Secretariat,
Government of Puducherry, Puducherry.
- 2.The Director of School Education,
Directorate of School Education,
Government of Puducherry,
Puducherry.
- 3.The Chief Educational Officer,
O/o Chief Educational Officer,
Government of Puducherry,Puducherry.
- 4.The Senior Accounts Officer,
Government of Puducherry,
Directorate of School Education,
Puducherry – 605 005.
- 5.The Correspondent,
Our Lady of Lourdes Government
Aided Boy's High School,
Villianur, Puducherry – 605 110.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to order bearing No.7833/DSE/GIAS/U-III/2019-2020 dated 25.02.2020 passed by the 2nd respondent and to quash the same; to direct the 2nd respondent to grant approval of the appointment of the petitioner as Trained Graduate Teacher w.e.f 04.06.2018 at Our Lady of Lourdes Government Aided Boys' High School, Villianur, Puducherry and to direct the respondents 1 to 4 (i) to release arrears of salary w.e.f 04.06.2018 in favour of the petitioner (ii) and to pay monthly salary at Rs.14,230/- + Rs.4600/- in the pay band of (PB2) Rs.9300/- – Rs.34800/- + Grade Pay of Rs.4600/- with all consequential benefits, as per Para 2 of the order No.7833/DSE/GIAS/U-III/2019-2020 dated 12.02.2020 passed by the 2nd respondent.

For Petitioner : Mr.K.Raja Shrinivas

For RR 1 to 4 : Mr.Syed Mustafa
Special Government Pleader

For R5 : No appearance

ORDER

This writ petition has been filed, seeking to quash the impugned order dated 25.02.2020 passed by the 2nd respondent and consequently, direct the 2nd respondent to grant approval of the appointment of the petitioner as Trained Graduate Teacher w.e.f 04.06.2018 at Our Lady of Lourdes Government Aided Boys' High School, Villianur, Puducherry and to direct the respondents 1 to 4 to release arrears of salary w.e.f 04.06.2018 and to pay monthly salary with all consequential benefits.

2. The case of the petitioner in brief:

The petitioner was appointed as B.T. Assistant on 01.02.2007 at St. Michaels' High School, Michaelpuram, Villupuram and his appointment was approved w.e.f. 01.02.2007. Thereafter, he was transferred to Kulandai Yesu High School, Maiyanar, Villupuram and then transferred to St. Marry's High School Odiyathur, Villupuram District. Further, as per the order of the Archbishop of Pondicherry and Cudalore dated 21.05.2018, the petitioner was appointed as Trained Graduate Teacher (TGT) at Our Lady of Lourdes Government Aided Boys' High School, Villianur, Puducherry with effect from 04.06.2018. The petitioner was not paid salary since 04.06.2018 to till date. Thereafter, vide order dated 12.02.2022, approval was accorded by the

Directorate of School Education, Government of Puducherry and the petitioner's pay was re-fixed. However, on 25.02.2020, the impugned order was passed by the Director of School Education, Government of Puducherry, stating that the petitioner's posting in the 5th respondent's school is treated as suspended. Hence the writ petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner was not paid monthly salary from 04.06.2018 itself and though his posting as Trained Graduate Teacher at Our Lady of Lourdes Government Aided Boys High School in the Puducherry Government was approved vide order dated 12.02.2020, immediately it was ordered by the second respondent vide order dated 25.02.2022 that his posting is treated as suspended. Further, without giving any opportunity of hearing to the petitioner, the impugned order has been passed and hence the same is liable to be set aside.

4. In the counter affidavit filed by the second respondent, it is stated that before appointing the petitioner, the fifth respondent ought to have obtained prior approval from them and that, the Puducherry School Education Act, 1987 and the Puducherry School Education Rules, 1996, do

not provide ratification for appointment. Further, due to financial crunch and consequent to the policy decision taken by the Government of Puducherry, all the teaching posts are being filled up by contractual engagement and the same is equally applicable for the schools receiving grant-in-aid from the Government. More over, objections were received from the Christian organization in the Union Territory of Puducherry opposing the appointment of teachers from Tamil Nadu. Hence, the impugned order has been passed.

5. The learned Special Government Pleader (Puducherry) submitted that, the petitioner has not passed the Teachers Eligibility Test, which is one of the qualifications for being appointed as teacher, as per Section 23(1) of the Right of Children to Free and Compulsory Education Act. He further submitted that the above issue is pending before Hon'ble Supreme Court of India in SLP (Civil) Nos.16828,16829, 16830 of 2018 for disposal.

6. The learned counsel appearing for the petitioner submitted that, the petitioner is fully eligible for appointment to the post of Trained Graduate Teacher and is having necessary qualifications, as per the Rules as well as the Act. Therefore, opportunity shall be granted to the petitioner to furnish

additional documents before the second respondent.

7. In view of the above submissions, this court is inclined to pass the following order.

i) The petitioner is directed to furnish additional documents before the second respondent, within one week from the date of receipt of a copy of this order.

ii) On receipt of such documents, the second respondent is directed to consider for approval of the appointment of petitioner in the 5th respondent School and if the second respondent finds that the petitioner is eligible, final order shall be passed within eight weeks from the date of receipt of particulars from the petitioner.

8. With the above directions, the writ petition stands disposed of. No costs. Consequently, connected writ miscellaneous petitions are closed.

25.04.2022

Index : Yes / No
Internet : Yes / No
mst

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