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W.P.No. 22543 of 2017



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 22543 of 2017

Mr. G. Saravanan

... Petitioner

Vs

1. The Director of School Education,
D.P.I. Compound,
College Road, Nungambakkam,
Chennai – 600 006.
2. The Chief Educational Officer,
Office of the Chief Educational Officer,
Collectorate Building,
Sathuvachari, Vellore -9.
3. The District Educational Officer,
Office of the District Educational Officer,
Vellore Fort, Vellore.
4. The Correspondent,
C.S.I. St. Andrew's Higher Secondary School,
No. 4, Mosque Street,
Arrakkonam.

... Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the second respondent in Na.Ka.No. 009/AA2/2017, dated 26.04.2017 (Signed on 23.05.2017) and quash the same and further direct the respondents 1 to 3 to apply G.O. (Ms) No. 525, dated 29.12.1997 and approve the appointment of the petitioner as General Machinist in the post of vocational instructor with effect from the date of appointment dated 09.06.2015 as per the proposal submitted by the fourth respondent management to the first respondent herein dated 28.02.2016 with all attended benefits including arrears of pay from the date of appointment from 09.06.2015.



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W.P.No. 22543 of 20



For Petitioner : Mr. S. Paul Gnanamuthu
For Respondents : Mrs. Mytheye Chandru
Special Government Pleader
for Respondents 1 to 3

Ms. A. Arulmary
for Respondent No.4

ORDER

The order impugned, rejecting the claim of the writ petitioner for approval of his appointment in the post of vocational instructor, is under challenge in the present writ petition.

2. The petitioner states that he acquired the qualification of Diploma in Mechanical Engineering, which is a two year course. He was appointed as vocational instructor in the fourth respondent aided minority school. The appointment was made vide proceedings dated 09.06.2015. The petitioner states that he was appointed in the place of one Mr.K.Muthukrishnan, who attained the age of superannuation. After the retirement of Mr.K.Muthukrishnan, one Mr.Ravi Peter, was appointed; however, he left the job and thereafter, the petitioner was appointed as vocational instructor.



3. The learned counsel for the petitioner vehemently contended that the petitioner was appointed in a sanctioned post and therefore, his appointment ought to have been approved by the competent educational authorities. The fourth respondent school has not taken effective steps to get the appointment of the writ petitioner approved and therefore, the petitioner has chosen to approach the authorities who in turn rejected the claim, and thus the present writ petition is filed.

4. The learned counsel for the petitioner further contended that the appointment of the petitioner was made in accordance with the procedure and there is no infirmity. He is working for the past about seven years and receiving management salary, which is lesser than that of the Government salary.

5. The learned counsel appearing on behalf of the fourth respondent school submitted that as per the staff fixation report, post of vocational instructor was not sanctioned by the competent educational authorities. Therefore, the petitioner was appointed as a management staff and the school is paying the management salary regularly without any lapse. Regarding approval of appointment, only if a teacher is appointed against the sanctioned post, then alone the



management will be in a position to submit a proposal and in the absence of any sanctioned post, the authorities will not entertain the proposal for consideration.

6. In the present case, the petitioner was appointed as management staff and therefore, he is not entitled for approval of appointment.

7. The learned Special Government Pleader appearing on behalf of the Education Department, contented that the fourth respondent school is sanctioned with one post. The petitioner was appointed as management staff purely on temporary basis. The said factum is recorded in the order of appointment itself. The writ petitioner is fully aware of the said fact and therefore, he cannot turn around now and seek approval of appointment.

8. It is further submitted that it is true that the management is giving salary to the petitioner because he was appointed as management staff and not in the regular sanctioned post. The writ petitioner cannot claim to be regularized on par with persons working in the sanctioned post. One Mr. Muthukrishnan retired in the year 30.06.1998 and he was re-employed till 31.05.1999. Further, one



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Mr.Ravi Peter was appointed and he has abstained from attending the work from the year 2005. For the past ten years there is no post of vocational instructor in the said school. Without any sanctioned post, the appointment made by the management is purely on management staff basis, and therefore, the claim of the writ petitioner for approval of a non-sanctioned post is not acceptable in the eye of law.

9. The writ petitioner is contending that the fourth respondent management has not sent the proposal, and the said fact is correct. This is because he is not appointed in the regular sanctioned post, and therefore, the management cannot send a wrong proposal. The act of the fourth respondent in not sending the proposal for approval is in accordance with law and it is not wrong. But in the contention itself he is admitting the fact that "by force only" wrong proposals were submitted by the fourth respondent.

10. As per the orders of this Court in W.P.No.35265 of 2016 dated 20.10.2016, an opportunity was given to the writ petitioner, and a personal hearing was conducted by the authorities on 20.02.2017, and a detailed order was passed by the competent authority in Na.Ka.No. 009/Aa2/2017 dated 26.04.2017. Against the said order, the present writ petition is filed by the writ petitioner.



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11. Any vacancy arising in the category of teaching posts in the aided minority/non-minority high and higher Secondary Schools should be filled after obtaining prior permission from the Government/Director of School Education. However, the management is well aware of this fact and issued appointment order with a condition that the petitioner is a management staff, and that it is not open to the him to make a claim in respect of the condition mentioned in the order. When there is no approval given by the authorities, it is not open to the petitioner to claim salary on par with staff appointed against sanctioned post.

12. In the present case, the order of appointment of the writ petitioner reveals that he was appointed as a management staff in the fourth respondent school. The fourth respondent school furnished a copy of the staff sanctioned report which would reveal that there is no post of vocational instructor sanctioned for the school and the learned Special Government Pleader also contended that the petitioner was appointed as management staff and the school is not having any sanctioned post in the cadre of vocational instructor and thus the petitioner's appointment cannot be approved.



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13. In view of the facts and circumstances, this Court does not find any infirmity in respect of the order impugned passed by the respondents. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected W.M.P.No.23673 of 2017 is closed.

30.11.2022

Index : Yes / No
Speaking order / Non-Speaking order
mrn

To

1. The Director of School Education,
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S.M.SUBRAMANIAM, J.

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