



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2022

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 25760 of 2018

and

W.M.P. Nos. 29966 and 29968 of 2018

S. Ananda Kumar

... Petitioner

-vs-

1. The Chief Educational Officer,
Tiruvallur,
Tiruvallur District.
2. The District Educational Officer,
Tiruvallur,
Tiruvallur District.
3. The Headmaster,
T.E.L.C. Kabis Higher Secondary School,
Pandur - 631 203,
Tiruvallur Taluk and District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the Second Respondent in his proceedings No. Na.Ka.No. 4195/A5/2017 dated 04.07.2018 and quash the same and direct the Respondents to approve the appointment of the Petitioner as B.T. Assistant (Science) from the date of appointment on 01.02.2013 and confer all consequential benefits.

For Petitioner : Mr. P.Ganesan

For Respondents : Mr. D.Gopal
Government Advocate (for R1 and R2)

R3 - No appearance

O R D E R

Heard Mr. P.Ganesan, Learned Counsel for the Petitioner and Mr. D.Gopal, Learned Government Advocate appearing for the First and Second Respondents, and perused the materials placed on record, apart from the pleadings of the parties.



2. The Third Respondent is a private school receiving grant-in-aid from the Government of Tamil Nadu for payment of salaries to its teachers. The Petitioner was appointed as Physical Education Teacher against a vacancy in the school of the Third Respondent by order dated 05.03.2004 passed by the Third Respondent and claims that he has joined duty on 05.03.2004 and has been working as Physical Education Teacher in the said school from then onwards and he was granted time scale of pay with effect from 06.10.2006. The Petitioner was subsequently promoted and upgraded to the post of B.T. Assistant (Science) by order dated 01.02.2013 passed by the Third Respondent in the place of Mrs. T.Arputhamary, Secondary Grade Assistant, who was promoted as B.T. Assistant (Tamil). The Third Respondent had forwarded the papers seeking approval of promotion of the Petitioner from Physical Education Teacher to B.T. Assistant (Science) to the First Respondent through the Second Respondent and it was claimed to have been returned by the Second Respondent by an order dated 07.05.2013 with instructions to re-submit the same after the sanction of the said post. In furtherance thereto, the Third Respondent had re-submitted the proposal on 14.08.2014 after sanctioning of the post by the First Respondent, which was returned by the Second Respondent by Proceedings in Na. Ka. No. 4195/A4/2014 dated 27.04.2015 by raising certain queries. The Third Respondent had re-submitted the proposal on 29.04.2015 rectifying the defects, which was rejected by the Second Respondent by Proceedings in AthiMu. No. 3495/A5/2017 dated 08.02.2017 requiring the explanation for delay in filling up the vacant post. The Third Respondent by letter dated 09.08.2017 is said to have explained the delay in filling up that vacant post. The Second Respondent by Proceedings in Na. Ka. No. 4195/A5/2007 dated 01.11.2017 had returned the proposal requiring certain additional details. The Third Respondent had again re-submitted the proposal on 11.11.2017 furnishing the additional details. Subsequently, staff fixation of the School of the Third Respondent was done by the First Respondent by Proceedings in Na. Ka. No. 7497/A3/2017 dated 21.11.2017. At that stage, the Petitioner has also filed the Writ Petition in W.P. No. 4333 of 2018 for approving his appointment as B.T. Assistant (Science) in the School of the Third Respondent and this Court by order dated 27.02.2018 had directed Second Respondent to consider the pending proposal and pass appropriate orders within a period of two weeks from the date of receipt of a copy of that order. In furtherance thereto, the Second by Proceedings in Na. Ka. No. 4195/A5/2017 dated 04.07.2018 has stated that since two Secondary Grade Teacher posts are surplus without teachers in the school of the Third Respondent, approval for the promotion of the Petitioner as B.T. Assistant (Science) could not be granted. Aggrieved thereby, the Petitioner has filed this Writ Petition challenging the same.

3. It has been brought to notice that the contentious issues relating to granting of approval for appointment in aided



private schools falling under the management of educational institutions establishing more than one school has been extensively delved into by the Division Bench of this Court in Secretary to Government -vs- Iruthaya Amali (Order dated 31.03.2021 in W.A. (MD) No. 76 of 2019 etc., batch) and has disposed those cases remitting the matter for fresh consideration before the concerned authority in terms of the directions issued therein. It is accepted by Learned Counsel for both sides that the instant Writ Petition is also one such matter covered by that authoritative pronouncement of the Division Bench of this Court, which now holds the field.

4. In such circumstances, the Writ Petition is disposed on the following terms:-

- (i) the impugned Order in Na. Ka. No. 4195/A5/2017 dated 04.07.2018 passed by the Second Respondent is set aside and the Third Respondent shall re-submit the papers by 18.04.2022 satisfying all requirements prescribed for grant of approval of appointment to the relevant post;
- (ii) the concerned authority shall consider the matter afresh in accordance with the directions issued by the Division Bench of this Court in Secretary to Government -vs- Iruthaya Amali (Order dated 31.03.2021 in W.A. (MD) No. 76 of 2019 etc., batch) for approval of appointment of the Petitioner in the school of the Third Respondent for grant of aid for payment of her salary, if she is otherwise eligible for it and she had actually worked during the relevant period;
- (iii) if it is found that any details or supporting documents satisfying the eligibility criteria for the benefits claimed had not been produced, the deficiencies in that regard shall be informed in writing to the Petitioner and the Third Respondent requiring the same to be furnished within a time frame of not less than 15 clear working days;
- (iv) in the event of the concerned authority not being satisfied with the compliance of the requirements even thereafter, an enquiry shall be immediately conducted affording full opportunity of personal hearing to the Petitioner and the Third Respondent to explain their position in that regard and the concerned authority shall pass reasoned orders dealing with each of the contentions raised on merits and in accordance with law and communicate the decision taken under written acknowledgment;
- (v) if the Petitioner is entitled to the approval of appointment, it shall be ensured that the eligible amount of arrears of salary is paid within three months from the date of passing of that order, apart from the monthly salary for future months on the due dates;



- (vi) consequently, the connected Miscellaneous Petitions are closed; and
(vii) there shall be no order as to costs.

WEB COPY

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

skr

To

1. The Chief Educational Officer,
Tiruvallur,
Tiruvallur District.
2. The District Educational Officer,
Tiruvallur,
Tiruvallur District.
3. The Headmaster,
T.E.L.C. Kabis Higher Secondary School,
Pandur - 631 203,
Tiruvallur Taluk and District.

Copy to

S.Ananda Kumar,
S/o. Simondoss,
Krishna Apartment,
Bazaar Street,
St. Thomas Mount,
Kancheepuram District.

+1cc to Mr. P.Ganesan, Advocate, S.R.No.19334
+1cc to the Government Pleader, S.R.No.19538

W.P. No. 25760 of 2018

SV(CO)
CT/08/04/2022