



W.P.(MD)No.4158 of 2020

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:09.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.4158 of 2020

and

W.M.P(MD)No.3495 of 2020

P.Dinesh Paul

... Petitioner

Vs.

1.The District Education Officer,
Madurai District, Madurai.

2.The Block Education Officer,
Madurai North Block,
Madurai.

3.The Correspondent,
Manohara Middle School,
Iyyanar Kovil 5th Street,
Sellur, Madurai.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings O.Mu.No.866/A1/2019 dated 27.11.2019 issued by the second respondent and quash the same and direct the respondents to grant relaxation of five years teaching



W.P.(MD)No.4158 of 2020

experience and to approve the appointment of the petitioner as Primary School Headmaster in the third respondent school with all consequential service and monetary benefits.

For Petitioner	: Mr.K.Samidurai
For R-1 & R-2	: Mr.S.Shaji Bino, Special Government Pleader
For R-3	: No Appearance

ORDER

This writ petition has been filed by the petitioner challenging the impugned proceedings in O.Mu.No.866/A1/2019, dated 27.11.2019, issued by the second respondent and to direct the respondents to grant relaxation of five years teaching experience and to approve the appointment of the petitioner as Primary School Headmaster in the third respondent school with all consequential service and monetary benefits.

2. The case of the petitioner is that the third respondent school is an aided school from Ist standard to Vth standard and from VIth standard to VIIIth standard, it is an unaided recognized school. The third respondent school is recognized under the Tamil Nadu Recognized Private Schools



W.P.(MD)No.4158 of 2020

WEB COPY

Regulation Act, 1973. While so, one Mr.Paul Jeykumar, who has worked as Headmaster of the school had retired from service on 30.06.2016 after attaining the age of superannuation. Hence, in order to fill up the said vacancy, an advertisement was given and a list of eligible candidates from the employment exchange was sought for and thereafter, the third respondent school conducted an interview. The school committee selected and appointed the petitioner as Primary School Headmaster from 01.07.2019 and before filling up the said vacancy, prior approval of the first respondent was sought for and he has given permission to fill up the vacancy through open market vide proceedings, dated 14.05.2019. After appointment of the petitioner, the third respondent school sent a proposal to the second respondent on 10.07.2019 for approval. However, the second respondent returned the said proposal.

3. The grievance of the petitioner is that the petitioner was appointed as Primary School Headmaster in the sanctioned post as per the fixation of staff strength made by the first respondent. The post of Primary School Headmaster is not a surplus one. Hence, the proposal



W.P.(MD)No.4158 of 2020

WEB COPY

was resubmitted to the second respondent and once again, it was returned by the second respondent vide impugned proceedings, dated 27.11.2019, on the ground that the petitioner did not have five years experience in the post of Secondary Grade Teacher for appointing him as Primary School Headmaster and further, the petitioner did not possess the certificate in Teachers Eligibility Test. Challenging the same, the petitioner has filed the present writ petition with the aforesaid prayer.

4. The learned counsel appearing for the petitioner would submit the petitioner was appointed as Primary School Headmaster of the third respondent School and hence, Teachers Eligibility Test is not necessary and as per G.O.Ms.No.155, dated 15.11.2011, for appointment to the post of Secondary Grade Teacher and B.T.Assistant, it is necessary to possess a certificate in Teachers Eligibility Test. Insofar as five years teaching experience is concerned, the school is seeking relaxation and G.O.Ms.No.97 School Education Department, dated 05.07.2001 provides for grant of such relaxation and therefore, the refusal of the second respondent is not sustainable.



W.P.(MD)No.4158 of 2020

WEB COPY

5. The learned counsel appearing for the petitioner further submitted that relied on the order passed in W.P.No.442 of 2007, dated 20.03.2007(The Joint Director of Elementary Education and others vs. N.S.Meenakshi), wherein this Court held that the petitioner therein was entitled to be appointed as Primary School Headmistress in view of G.O.Ms.No.97 School Education Department, dated 05.07.2001, relaxing the requirement of five years experience and hence, prayed for appropriate orders.

6. The learned Special Government Pleader appearing for the respondents 1 and 2, would submit that the petitioner is holding the post of Secretary in the third respondent school and though qualified candidates were available in the school to be appointed as Primary School Headmaster, he prevented them from participating in the selection process and he obtained an order from the second respondent to fill up the said post in the open market and further, obtained a list from the employment exchange and as a Secretary of the School, he participated in the interview and selected himself as Primary School Headmaster,



W.P.(MD)No.4158 of 2020

WEB COPY

which is nothing but a fraud played by the petitioner. Hence, the approval was rejected not only on the ground that the petitioner not acquired the qualification of five years of experience but also for the aforesaid lapse. Therefore, the refusal to approve the appointment of the petitioner is perfectly in order and therefore, prayed for dismissal of this writ petition.

7. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2 and perused the materials produced before this Court.

8. It is admitted that the third respondent school is recognized under the Tamil Nadu Recognized Private Schools Regulation Act, 1973. In order to fill up the said vacancy that arose on account of the superannuation attained by one Mr.Paul Jeykumar, an advertisement was given and a list of eligible candidates from the employment exchange was sought for and thereafter, the third respondent school conducted an interview. The school committee selected and appointed the petitioner as



W.P.(MD)No.4158 of 2020

WEB COPY

Primary School Headmaster. After appointment of the petitioner, the third respondent school sent a proposal to the second respondent on 10.07.2019 and the same was returned which is under challenge in this writ petition and the learned counsel also relied on the order passed by this Court in W.P.No.442 of 2007 dated 20.03.2007(The Joint Director of Elementary Education and others vs. N.S.Meenakshi) in his favour, the said decision is not applicable to the facts on hand.

9. It is seen that the petitioner played a dual role ie., one as a candidate and another one as a member of the appointing Committee and further, the petitioner and the third respondent is one and the same and the third respondent appointed himself as Headmaster without requisite qualification of five years of experience as Secondary Grade Teacher and he did not possess the certificate in the Teachers Eligibility Test. If the appointment of the petitioner as Primary School Headmaster is approved, then there is no fair play of appointment in the aided school.



W.P.(MD)No.4158 of 2020

10. For all the foregoing reasons, this writ petition is dismissed.

No Costs. Consequently, connected miscellaneous petition is closed.

09.12.2022

pm

Index:Yes/No

To

1.The District Education Officer,
Madurai District, Madurai.

2.The Block Education Officer,
Madurai North Block,
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WEB COPY



W.P.(MD)No.4158 of 2020

M.DHANDAPANI,J.

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W.P.(MD)No.4158 of 2020

09.12.2022