



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.4149 of 2022

and WMP (MD) Nos.3561 and 3562 of 2022

WEB COPY

M.Ukkirapandian

... Petitioner

Vs.

1.The Joint Director,
Higher Secondary Education
College Road,
Chennai 600 006.

2.The Chief Educational Officer,
Virudhunagar
Virudhunagar District.

3.The District Educational Officer,
Srivilliputhur
Srivilliputhur Educational District
Virudhunagar District

4.The Secretary
G.S.Hindu Higher Secondary School
Srivilliputhur 626 125
Virudhunagar District

5.R.Balasubramanian

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order of Na.Ka.No.434/A3/2022 dated 04.02.2022 passed by the 2nd respondent and consequential depromotion order passed by the 4th respondent dated 17.02.2022 and quashing both and consequently directing the 2nd respondent to give approval of petitioner's promotion to the post of Post Graduate Teacher (Economics).

For Petitioner	: Mr.R.Murugappan
For Respondents 1 to 3	: Mr.G.V.Vairam Santhosh Additional Government Pleader
For R5	: Mr.C.Venkatesh Kumar for M/s.Ajmal Associates

ORDER

The order dated 04.02.2022 passed by the 2nd respondent cancelling the promotion and the consequential de-promotion order passed by the 4th respondent in proceedings dated 17.02.2022 are under challenge in the present writ petition.



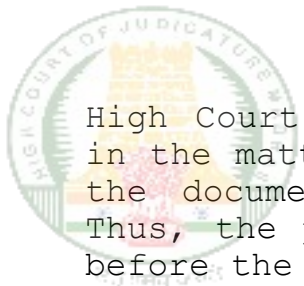
2. The petitioner was appointed in the 4th respondent Government Aided Higher Secondary School as Secondary Grade Teacher in the year 1999. The petitioner studied Under Graduate Course and Post Graduation in History and also B.Ed. He was promoted as B.T.Assistant (History) on 09.12.2018 in the 4th respondent School. The petitioner further studied Post Graduate course in Economics also. As vacancy arose in the Post Graduate Teacher (Economics) in the 4th respondent school, the petitioner submitted a representation to appoint him in the Post Graduate Teacher (Economics) by way of promotion. He filed W.P.(MD) No.4535 of 2012 to consider him for promotion and during the pendency of the writ petition, the 4th respondent in order dated 06.08.2012 promoted the petitioner to the post of Post Graduate Teacher Economics. Thus, the petitioner withdrew the writ petition. Thereafter, the application for approval of appointment was sent to the competent educational authorities, who has scrutinized the application and found that the petitioner is not qualified for promotion to the post of Post Graduate Teacher in Economics. Thus, the order impugned reverted the writ petitioner has been passed.

3. The petitioner has stated that he preferred an appeal to the first respondent Joint Director. The counter filed by the official respondents also admits that the petitioner preferred an appeal against the order passed by the 2nd respondent before the Directorate of School Education dated 18.02.2022. Appeal filed by the writ petitioner is a statutory appeal under the provisions of the Private Schools Regulation Act (hereinafter referred to as 'the Act'). Thus, the statutory appeal is to be pursued and must be disposed of by conducting an appropriate enquiry.

4. Section 23 of the Act contemplates appeal to the Director of School Education. Thereafter, under Section 24, the petitioner has to approach the Special Tribunal/Principal Subordinate Judge for the purpose of redressal of his grievance. When the statute contemplates redressal mechanism, the said mechanism must be exhausted by the aggrieved person, as it is efficacious. The scope of Sections 23 and 24 of the Act has been elaborately considered by this Court in the case of A.Thilagam v. Joint Director/appellate authority in W.P.(MD) No.20302 of 2019 dated 08.02.2022.

5. In view of the fact that an alternate remedy contemplated under the Act is efficacious in nature and the petitioner has already availed the remedy under Section 23 of the Act, he is at liberty to pursue the said liberty under the competent authority for redressal of his grievance in the manner known to law.

6. The rule is to exhaust the statutory remedy and entertaining a writ petition is an exemption. Therefore, in all circumstances, the aggrieved person must exhaust the alternate remedy provided



High Court cannot conduct adjudication of disputed issues involved in the matter. Such issues are to be adjudicated with reference to the documents and evidences in original before the authorities. Thus, the petitioner pursue the remedy in the appeal already filed before the competent appellate authority.

7. With this liberty, the writ petition stands disposed of. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

RR

To

1.The Joint Director,
Higher Secondary Education
College Road,
Chennai 600 006.

2.The Chief Educational Officer,
Virudhunagar
Virudhunagar District.

3.The District Educational Officer,
Srivilliputhur
Srivilliputhur Educational District
Virudhunagar District

+1 CC to M/s. C.Venkatesh Kumar (AJMAL ASSOCIATES), Advocate
(SR-13373[F] dated 22/03/2022)

+1 CC to M/s.R.MURUGAPPAN, Advocate (SR-13385[F] dated 22/03/2022)

+1 CC to M/s.SPL GP (SR-13486[F] dated 22/03/2022)

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