



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.7367 of 2019
and
W.M.P.(MD) No.5878 of 2019

R.Sundaravadanam ... Petitioner

-vs-

1.The State of Tamil Nadu,
Rep., by its Secretary to the Government,
School Education Department,
Secretariat, Chennai-9.

2.The District Education Officer,
Thanjavur District.

3.The Secretary,
Uma Mahaeshwara Higher Secondary School,
Karanthai, Thanjavur District.

4.The Chief Educational Officer,
Thanjavur District. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 2nd respondent vide in his proceeding Na.Ka.No.3236/A3/2018 dated 30.11.2018 and quash the same as illegal, arbitrary and consequently directing the respondents to pay all monetary and retirement benefits from 01.10.2006 and continuously to the petitioner.

For Petitioner : Mr.D.Selvanayagam

For RR1, 2 & 4 : Mr.V.Om.Prakash,
Government Advocate

O R D E R

The order passed by the 2nd respondent in proceedings dated 30.11.2018 is under challenge in the present writ petition.
<https://hcservices.ecourts.gov.in/hcservices/>



2.The petitioner was selected for appointment to the post of Junior Assistant by Direct Recruitment by the school committee and his appointment was approved by the competent educational authorities. However, the writ petition is filed challenging the original order passed by the District Educational Officer. The order passed by the original authority is appealable under Section 23 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 (hereinafter referred to as "the Act" for brevity). There is a provision for second appeal under the said Act. Thus, the petitioner has to exhaust the statutory remedy which is efficacious and the second appeal is provided before the Judicial Forum, i.e., notified Principal Sub Court. When the efficacious statutory remedies are contemplated for the purpose of redressal of grievances, an adjudication is required.

3.The power of judicial review of the High Court under Article 226 of the Constitution of India is to ensure the process through which a decision is taken in consonance with the statutes and rules, but not the decision itself. Therefore, the findings of the appellate authority and the second appellate forum would be of greater assistance for the High Court to exercise the power of judicial review under Article 226 of the Constitution of India. In the event of not exhausting such statutory remedy, there is a possibility of error, omission or commission while exercising the power of judicial review which is certainly not desirable and in all circumstances, the aggrieved persons are bound to exhaust the statutory remedy and thereafter approach the High Court. These being the principles to be followed, the petitioner is at liberty to file an appeal before the competent authority under the Act.

4.With the above liberty, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr
To

1.The Secretary to the Government,
The State of Tamil Nadu,
School Education Department,
Secretariat, Chennai-9.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The District Education Officer,
Thanjavur District.

3.The Chief Educational Officer,
Thanjavur District.

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+1 CC to M/s.SPL GP (SR-6768[F] dated 17/02/2022)

+1 CC to M/s.D.SELVANAYAGAM, Advocate (SR-6716[F] dated
17/02/2022)

W.P. (MD) No.7367 of 2019
16.02.2022

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