



W.P(MD)No.19043 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19043 of 2021

and

W.M.P.(MD)No.15816 of 2021

Dhanapaul Middle School,
Rep. by its Manager-Correspondent,
B.B.Kulam, Madurai-625 002.

... Petitioner

Vs.

1.The District Educational Officer,
Melur, Madurai District.

2.The Block Educational Officer,
Madurai West, Madurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to impugned order of the 1st respondent in O.Mu.No. 4483/A3/2021 dated 24/08/2021 and consequently, direct the respondents 1 and 2 herein to approve the appointment of J.Jerome David Asir as Middle school headmaster in the petitioner school and pay BT Assistant salary from 25/09/2019 to 25/09/2024 and thereafter pay Middle School Headmaster pay scale w.e.f.25/09/2024 with all consequential monetary benefits.



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For Petitioner : Mr.T.Pon Ramkumar

For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is an aided minority educational institution. It is a middle school. When the post of middle school headmaster felt vacant, they decided to appoint a candidate from the open market. This was because, BT Assistants working in the school had expressed their unwillingness to be appointed as Headmaster of the Institution. The writ petitioner Management appointed one J.Jerome David Asir as Middle School Headmaster with effect from 25.09.2019. The said J.Jerome David Asir was not having five years experience which is one of the requisite for being appointed as BT Assistant. It is not in dispute that the said candidate was not possessing five years experience as BT Assistant. When the proposal was submitted for approving his appointment, the District Educational Officer, Melur returned the same on the ground as to why the Management appointed a person without such previous experience of five years. Challenging the said order of return, the present writ petition has been filed.



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3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to direct the first respondent to approve the petition mentioned appointment.

4. The respondents have filed a detailed counter affidavit and the learned Additional Government Pleader took me through its contents. He submitted that the impugned order of return does not call for any interference.

5. I carefully considered the rival contentions and went through the materials on record.

6. The issue raised in the writ petition is no longer res integra. The Hon'ble Division Bench in W.A.No.1404 of 2014 also raised the issue as to whether the appointment of a person as Middle School Headmaster who did not possess five years experience can be approved or not. It proceeded to hold that the issue is no longer res integra and that in a catena of earlier decision, it was held that such appointment can be approved but the persons will be eligible only for BT Assistant salary till he acquires five years experience. In the typed set of papers, the learned counsel appearing for the petitioner has enclosed few



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other decisions which are also on the same lines.

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7. Respectfully adopting the very same approach, the order impugned in the writ petition is set aside. The writ petitioner Management is permitted to re-submit the proposal before the first respondent. The first respondent shall approve the petition mentioned appointment with effect from 25.09.2019 and disburse grant-in-aid towards salary and other allowances. It is made clear that Thiru.J.Jerome David Asir will be eligible to receive only BT Assistant salary till he acquires requisite five years experience and thereafter, he will be entitled to the pay of Middle School Headmaster.

8. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

02.11.2022

Index : Yes / No
Internet : Yes/ No
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To

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G.R.SWAMINATHAN, J.

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