



W.P.(MD)No.12414 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.12414 of 2014

Abdul Aziz

... Petitioner

Vs.

1. The State of Tamil Nadu, Rep by
the Secretary to Government,
Education Department,
Saint Fort George, Chennai.
2. The Director of Elementary Education,
College Road, Chennai – 6.
3. The District Elementary Educational Officer,
Government High School Campus,
Theni District.
4. The Additional Assistant Elementary Educational Officer,
Periyakulam, Theni District.
5. A-1 Ameen Primary School,
Represented by its Correspondent.

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Mandamus*, calling for the records relating with the impugned



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order passed by the 4th respondent in O.Mu.No.465/A1/2014, dt. 21.7.2014 and quash the same as it is arbitrary and illegal and in consequence to direct the respondents to approve the petitioners appointment of Elementary School Headmaster in the 5th respondent School on 11.10.1996 and to grant his salary for the post of Secondary grade teacher, for the period from 11.10.1996 to 10.10.2001 and Elementary School Headmaster, for the period from 11.10.2001 to 22.01.2009, by extending the benefit of the order in WP.No.16383 of 2000, dated 03.11.2008 and G.O.(3D) NO.117, dated 11.9.2012 and to pass such further order.

For Petitioner : No appearance

For R-1 to R-4 : Mr.S.Kameswaran
Government Advocate

For R-5 : No appearance

ORDER

This Writ Petition has been filed to quash the impugned order passed by the 4th respondent in O.Mu.No.465/A1/2014, dated 21.7.2014 and consequently to direct the respondents to approve the petitioners appointment of Elementary School Headmaster in the 5th respondent School on 11.10.1996 and to grant his salary for the post of Secondary Grade Teacher, for the period from 11.10.1996 to 10.10.2001 and Elementary School Headmaster, for the period from 11.10.2001 to 22.01.2009, by extending the benefit of the order in WP.No.16383 of 2000, dated 03.11.2008 and G.O.(3D) NO.117, dated 11.09.2012 .



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2. The petitioner is qualified B.Sc., B.Ed., and initially he was appointed as an Elementary School Headmaster on 11.10.1996 in the resignation vacancy on 10.10.1996. Thereafter, the petitioner resigned on 22.01.2009. The Government has issued G.O.Ms.No.559 Education Department, dated 11.07.1995, where the school were directed not to appoint Secondary Grade Teachers in the B.T. Assistant post. The petitioner has completed Child Psychology training on 31.05.2003. As per the order of the 3rd respondent, dated 11.06.2003, the petitioner's appointment was approved on 02.06.2003 and the petitioner had received the salary for the same from 02.06.2003 to 22.01.2009.

3. The contention of the petitioner is that the respondents have rejected to approve the petitioner's appointment as Elementary School Headmaster, w.e.f., 11.10.1996, vide the order dated 21.06.2007 of the 3rd respondent. The said order was challenged by the 5th respondent's school in W.P.No.9983 of 2007 and the same was allowed by this Court on 24.11.2008 and directed to sanction four secondary grade teachers and one Headmaster to the 5th respondent's school, however the petitioner's appointment was not dealt with in the said order. With regard to the appointment of Headmaster, the candidate should have five years



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teaching experience, but there is an exemption if they are having B.A., and B.Ed., Decree. Further, the petitioner's appointment was in the year 1996 as an Elementary School Headmaster, hence the G.O.Ms.No.155 is not applicable and it is only applicable for the appointment of secondary grade teacher.

4. The further contention of the petitioner is that the petitioner's appointment from 11.10.1996 ought to be approved. In similar cases, this Court has granted an approval in W.P.No.16383 of 2000 and hence the petitioner is entitled to get salary for the post of secondary grade teacher for a period from 11.10.1996 to 10.10.2001 and after completion of five years experience, the petitioner is entitled for Headmaster salary for a period from 11.10.2001 to 22.01.2009 and therefore, he has submitted a representation on 10.07.2014 to the 3rd respondent to approve the appointment and disburse the salary, as stated above. The 3rd respondent has rejected the same, vide order, dated 21.07.2014. Aggrieved over the same, the instant writ petition is filed.

5. The respondents have filed counter affidavit, stating that the petitioner had completed the course of Child Psychology in the year 2003. As per



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G.O.Ms.No.155, prior to the date of completion of Child Psychology, the petitioner is not entitled to any benefits, since the petitioner has over qualified and as per G.O.Ms.No.155, the said period cannot be regularized or approved. Even though, the petitioner was appointed as Headmaster directly, the petitioner was not entitled to salary, since the petitioner has not completed five years training and without five years training, the petitioner was appointed as Headmaster and for appointing in the Secondary grade post, the petitioner is over qualified. In either way, the petitioner's appointment is illegal, without any proper prior approval the petitioner was appointed by the 5th respondent. The same cannot be approved by the official respondents and prayed to dismiss the writ petition.

6. Even though, notice has been served to the petitioner, he did not turn up to prosecute the matter before this Court in person or through his counsel.

7. Heard Mr.S.Kameswaran, learned Government Advocate appearing for the respondents and perused the affidavit filed by the petitioner and relevant documents available on record.



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8. The issue of appointing B.T. Assistant in the post of Secondary Grade Teachers was considered in Secretary & Correspondent Uswathun Hasana Oriental (Arabic) Girls Higher Secondary School Pallapatti ***reported in 2002 Writ LR 173*** and the said appointment were held illegal. Thereafter the government sympathetically considered the case and issued G.O.Ms.155 School Education (D2) Department dated 03.10.2002, wherein, it is stated that the said teachers would be absorbed from the date of completion of Child Psychology training. The said G.O.Ms.No.155 was challenged in ***W.A.No.249 of 2002 batch*** in the case of ***the State of Tamil Nadu and others VS Pallivasal Primary School represented by its Correspondent reported in 2004 2 L.W.591***. The Hon'ble Court has upheld the G.O.Ms.No.155 and has held in paragraph 8 that “the Government has shown great concession to them by allowing them to retain their position even without obtaining the requisite diploma in child psychology and we see nothing wrong in the government directing **that their approval/confirmation can only be on and after the date they complete the training.**” In ***Pallivasal case*** the only relief granted to the teachers is that the past salary would not be recovered. Therefore para No.3 (7) of G.O. 155 alone was set aside and the rest of the G.O. was upheld.



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The said appointments were approved after completion of Child Psychology training.

9. In the present case the petitioner had completed Child Psychology training 31.05.2003. As per the order of the 3rd respondent, dated 11.06.2003, the petitioner's appointment was approved on 02.06.2003 and the petitioner had received the salary for the same from 02.06.2003 to 22.01.2009.

10. The claim of the petitioner that he was appointed directly to the post of Secondary Grade HM and hence he is not covered by the G.O.Ms.No.155. The said plea cannot be accepted the petitioner has not completed training. For appointing Secondary Grade HM, the candidate should possess experience of five years in the Secondary Grade Teacher. For appointing in the Secondary Grade Teacher the candidate should undergo Child Psychology training since the petitioner is possessing B.T. qualification. Moreover, it is seen that the writ petitioner has filed this petition, after lapse of six years. Since the petitioner's appointment itself is against the rules, the petitioner cannot claim any



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consequential relief of monetary benefits. Therefore, the writ petition is not having any merits.

II. Accordingly, this Writ Petition stands dismissed. No Costs.

Index : Yes / No
Internet : Yes
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To

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3. The District Elementary Educational Officer,
Government High School Campus,
Theni District.
4. The Additional Assistant Elementary Educational Officer,
Periyakulam, Theni District.



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S.SRIMATHY, J

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**Order made in
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