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W.P.No.72 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.72 of 2023 and
W.M.P.Nos.59 & 60 of 2023

John Wilson Azariah

... Petitioner

Vs.

1.The Director of School Education,
DPI Campus, College Road,
Chennai – 6.

2.The Chief Educational Officer,
Thirupattur.

3.The District Educational Officer,
Thirupattur, Thirupattur District.

4.The Correspondent,
Concordia Higher Secondary School,
Ambur – 635 802.

5.Enuice Chandrothayam

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for entire records connected with the impugned proceedings passed by the 2nd respondent vide Na.Ka.No.2897/Aa3/2021, dated 15.09.2022, and the order of the 3rd respondent in Na.Ka.No/3751/A2/2017, dated 09.11.2017, in so far as appointing the 5th respondent as Headmistress (in-charge) of the 4th respondent school and Quash the same and consequently direct the 2nd respondent to approve the promotion of the petitioner as Headmaster in the 4th respondent w.e.f 01.06.2017, on the basis of the proposal submitted by



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the school on 02.06.2017, with all monetary and consequential benefits.

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For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.P.Baladhandayutham,

Special Government Pleader-R1 to R3

No Appearance-R4

Mrs.Dakshayini Reddy, Senior Counsel for

Mr.B.Gopalakrishnan-R5

ORDER

This Writ Petition has been filed to call for the entire records connected with the impugned proceedings passed by the 2nd respondent *vide* Na.Ka.No.2897/Aa3/2021, dated 15.09.2022 and the order of the 3rd respondent in Na.Ka.No.3751/A2/2017, dated 09.11.2017 in so far as appointing the 5th respondent as Headmistress (in-charge) of the 4th respondent School and quash the same and consequently, direct the 2nd respondent to approve the promotion of the petitioner as Headmaster in the 4th respondent School w.e.f 01.06.2017, on the basis of the proposal submitted by the School on 02.06.2017, with all monetary and consequential benefits.

2.The contention of the learned counsel for the petitioner is that from 06.01.2017 onwards, the petitioner was appointed as Headmaster in



the 4th respondent School and the proposal for approval of the same was duly forwarded by the 4th respondent School to the 3rd respondent.

However, when the same was pending, the 3rd respondent has appointed the 5th respondent as Headmistress (in-charge) of the 4th respondent School *vide* impugned order, dated 09.11.2017. His further contention is that since the petitioner has been appointed as Headmaster of the 4th respondent School and the proposal for the same was also sent for approval, the petitioner's approval should have been sanctioned. On the contrary, the 2nd respondent *vide* impugned order, dated 15.09.2021 has rejected the approval for promotion as Headmaster. Despite the report of the Interim Administrator, dated 07.09.2022 directing the promotion of the petitioner as Headmaster in the 4th respondent School prospectively and not from 01.06.2017, the said report has not taken into consideration by the 2nd respondent in the impugned order, dated 15.09.2022. Challenging the same and also the impugned order of the 3rd respondent, dated 09.11.2017 appointing the 5th respondent as Headmistress (in-charge) of the 4th respondent School, the present Writ Petition has been filed.



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taking note of all the aspects and for smooth administration of the Church, has appointed the retired Judge of this Court Mr.Justice D.Hariparandaman as Interim Administrator to look into all the issues. Therefore, when there was dispute between the persons over the Management, the petitioner is said to have been sponsored by one of the rival group. Such being the position, the petitioner, as a matter of right, cannot seek an appointment as Headmaster.

6.It is also relevant to note that the 5th respondent was appointed as Headmistress (in-charge) of the 4th respondent School based on the order passed by the 3rd respondent on 09.11.2017 for smooth running of the 4th respondent School. From 2017 onwards, the 5th respondent was holding the post of Headmistress (in-charge) of the 4th respondent School. It appears that she was supposed to be superannuated in the month of June 2022, however, this Court, by interim order in W.P.No.28426 of 2022, dated 28.10.2022 gave direction not to disturb the petitioner from functioning as a Teacher in the School. Pursuant to the said order, it appears that the 5th respondent has been relieved from the post from 30.06.2022 and thereafter, the petitioner also retired on 30.04.2023. It is also relevant to note that in



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an earlier writ petition, the impugned order, dated 09.11.2017 was challenged before this Court in W.P.Nos.17245 of 2018 etc., batch. This Court, by order, dated 30.10.2019 has disposed the batch of writ petitions with a direction to the Chief Educational Officer to consider the proposal submitted by the Correspondent of concerned School in the matter of approval of appointment of both teaching and non-teaching staffs. It is to be noted that the impugned order, dated 09.11.2017 has not discussed in the order of this Court, dated 30.10.2019. Be that as it may, now the same impugned order, dated 09.11.2017 has sought to be challenged in the present Writ Petition.

7.In the opinion of this Court, such a practise is not acceptable, when the impugned order, dated 09.11.2017 was already put in challenge in an earlier writ petition. While disposing the Writ Petition (W.P.Nos.17245 of 2018 etc., batch), the learned Single Judge has not quashed the impugned order, dated 09.11.2017. Therefore, the appropriate remedy of the petitioner is to file an appeal and not to bring another Writ Petition for the same relief. In such view of the matter, impugned order, dated 09.11.2017 cannot be challenged in this Writ Petition.



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8.It is to be noted that while disposing the Writ Petition earlier (W.P.Nos.17245 of 2018 etc., batch), this Court is also directed the Chief Educational Officer to obtain the opinion of the Interim Administrator in the matter of approval of the appointments. The Interim Administrator, by report, dated 07.09.2022 has given various recommendations in respect of the petitioner and it is suggested that the petitioner should be promoted prospectively as Headmaster in the 4th respondent School and not from 01.06.2017 as sought for by him. The reasons for such suggestion is also spelt out in paragraph No.4 of the report and the same is also indicated that the petitioner was never worked as Headmaster from the appointment date, that is, 01.06.2017 and in his place, 5th respondent was already put in place.

9.Now, it appears that the 5th respondent superannuated on 30.06.2022 and the petitioner was retired from service on 30.04.2023. Such view of the matter, the petitioner, as a matter of right, cannot claim promotion from the date of his appointment. Hence, I do not find any merits in this Writ Petition. Accordingly, this Writ Petition stands dismissed.



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10. Since the petitioner already retired from service on 30.04.2023, the 4th respondent is directed to disburse the eligible terminal benefits to the petitioner within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed.

21.09.2023
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Index : Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking Order/Non-Speaking Order

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To

1. The Director of School Education,
DPI Campus, College Road,
Chennai – 6.
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N.SATHISH KUMAR, J.
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