



Writ Petition No.2033 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.2033 of 2023
&
W.M.P.Nos.2140 & 2163 of 2023

K.Venkatraman
S/o.Kannan

... Petitioner

Vs.

- 1.The Principal Secretary,
School Education,
Fort St.George,
Chennai - 600 009.
- 2.The Commissioner,
School Education,
DPI Campus,
Chennai - 600 006.
- 3.The Chief Educational Officer,
Thiruvannamalai.
- 4.The District Educational Officer,
Thiruvannamalai.
- 5.The Headmaster,
Municipal Girls Government Model
Higher Secondary School,
Thiruvannamalai - 606 601.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the third respondent in Na.Ka.No.1006/A1/2020 dated 12.01.2023 and the consequential order of the fifth respondent in Na.Ka.No.31/2023 dated 21.01.2023, quash the same and consequently, direct the respondents to continue the petitioner in the post of Junior Assistant with all service and monetary benefits.

For Petitioner : Ms.Dakshiyani Reddy, Senior Counsel
for Ms.Suneetha

For Respondents : Mr.D.Ravichander
Special Government Pleader

ORDER

On consent given by either side, the main writ petition itself is taken up for final hearing.

2. The present writ petition has been filed challenging the impugned proceedings of the third respondent in Na.Ka.No.1006/A1/2020 dated 12.01.2023 and the consequential order passed by the fifth respondent in Na.Ka.No.31/2023 dated 21.01.2023 and for a consequential direction to continue the petitioner in the post of Junior Assistant with all service and monetary benefits.



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3. The brief facts of the case are stated hereunder:

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3.1. The petitioner was originally appointed as Office Assistant with effect from 18.12.2020 by the proceedings of the District Educational Officer, Thiruvannamalai and was posted in the Government Higher Secondary School at Thiruvannamalai District. The services of the petitioner was regularized and the probation was declared in the post of Office Assistant. Subsequently, the petitioner was promoted to the post of Record Clerk by the District Educational Officer through proceedings dated 25.11.2010. The probation was also declared in the post of Record Clerk and thereafter, the petitioner was promoted to the post of Lab Assistant with effect from 23.02.2012.

3.2. The further case of the petitioner is that from the post of Lab Assistant, the next avenue for promotion was to the post of Junior Assistant. The petitioner was promoted and posted to the post of Junior Assistant by the District Educational Officer, through proceedings dated 22.08.2014. The petitioner has been working in this post for more than ten years and he was also regularized in the said post.



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3.3. The grievance of the petitioner is that the third respondent through the impugned proceedings dated 12.01.2023 cancelled the appointment of the petitioner to the post of Junior Assistant and reverted him back to the post of Lab Assistant. As a consequence, the fifth respondent through proceedings dated 21.01.2023 passed consequential orders and the petitioner was relieved from the post of Junior Assistant with effect from 21.01.2023. Aggrieved by the same, the present writ petition has been filed before this Court.

4. The main thrust of the submission made by the learned Senior Counsel appearing on behalf of the petitioner is that the impugned proceedings of the third respondent and the consequential proceedings of the fifth respondent are liable to be interfered with by this Court since those orders were passed even without putting the petitioner on notice and therefore, there is violation of principles of natural justice. Learned Senior Counsel further submitted that the ground taken by the third respondent for cancelling the appointment of the petitioner to the post of Junior Assistant by relying upon Rule 3(g)(i) of the Tamil Nadu Ministerial Service Rules is also not sustainable in view of the order passed by this Court in W.P.No.13849 of 2020, dated 05.02.2021.



5. Learned Senior Counsel submitted that this Court has already held that steps must be taken by the respondents to include the post of Lab Assistant for promotion to the post of Junior Assistant and uncertainty must be removed in order to avoid any future confusion. Without undertaking this exercise, once again the respondents have committed the same mistake and had come to a conclusion that the petitioner is not entitled for promotion to the post of Junior Assistant and accordingly, the petitioner was reverted back to the post of Lab Assistant.

6. *Per contra*, learned Special Government Pleader appearing on behalf of the respondents submitted that the petitioner was not entitled for being appointed to the post of Junior Assistant. That apart, pay scale for both the posts of Junior Assistant and Lab Assistant are equal and therefore, there is no question of the petitioner being reverted to the post of Lab Assistant. Learned Special Government Pleader submitted that since the impugned order passed by the third respondent does not result in any civil consequences to the petitioner, there is no requirement to afford an opportunity and thereafter, pass the order. In view of the same, learned Special Government Pleader submitted that there is absolutely no ground to quash the impugned order passed by the third respondent and the consequential order passed by the fifth respondent.



7. This Court has carefully considered the rival submissions and perused the materials available on record.

8. There is no dispute with regard to the fact that the petitioner, who was holding the post of Lab Assistant was subsequently promoted and posted as Junior Assistant with effect from 22.08.2014. Such an order was passed by the District Educational Officer through proceedings dated 22.08.2014. There is also no dispute with regard to the fact that the petitioner was also working/discharging his duties as Junior Assistant for nearly ten years. If the third respondent wanted to cancel the appointment of the petitioner to the post of Junior Assistant, the minimum that was required on the part of the third respondent is that the petitioner should have been put on notice and the explanation of the petitioner should have been called for. The third respondent has taken a stand as if there is no difference in the scale of pay between the posts of Junior Assistant and Lab Assistant. However, the petitioner has taken a stand that the pay scale is different for both these posts and insofar as the pay scale of Junior Assistant, it is 5200-20200 + GP 2000 and whereas the pay scale for Lab Assistant is 5200-20200 + GP 1900. Therefore, according to the petitioner, the impugned order passed by the third respondent has



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virtually reverted the petitioner back to the post of Lab Assistant. Such an indication is also available in the order passed by this Court in W.P.No.13849 of 2020, dated 05.03.2021.

9. Learned Senior Counsel appearing on behalf of the petitioner urged this Court to go into grounds on which the third respondent has passed the order by relying upon Rule 3(g)(i) of the Tamil Nadu Ministerial Service Rules.

10. It is not necessary for this Court to undertake such an exercise at this juncture. There is some indication given by this Court in the earlier order passed in W.P.No.13849 of 2020. Hence, if a fresh notice is issued by the third respondent calling for explanation, it is always open to the petitioner to rely upon the earlier order passed by this Court.

11. In the light of the above discussion, this Court has absolutely no hesitation to interfere with the order passed by the third respondent and the consequential order passed by the fifth respondent since these orders have been passed in violation of principles of natural



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justice and these orders have civil consequences against the petitioner.

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12. Accordingly, the impugned proceedings of the third respondent in Na.Ka.No.1006/A1/2020 dated 12.01.2023 and the consequential order passed by the fifth respondent in Na.Ka.No.31/2023 dated 21.01.2023 are hereby set aside. If the third respondent wants to initiate any fresh proceedings against the petitioner in this regard, it is left open to the third respondent to do so by issuing a fresh notice to the petitioner and calling for explanation from the petitioner and consider the explanation and thereafter pass orders in accordance with law.

In the result, this Writ Petition is allowed in the above terms. Since the impugned order passed by the third respondent and the consequential order passed by the fifth respondent have been set aside by this Court, it goes without saying that the petitioner will be entitled to continue in service in the post of Junior Assistant. No costs. Consequently, the connected miscellaneous petition is closed.

25.01.2023

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order



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N.ANAND VENKATESH, J

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