



WP.12886 & 17597/2009
W.P. 20123/2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.12.2022

Pronounced on : 28.03.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.Nos.12886 and 17597 of 2009
W.P.No.20123 of 2010

W.P. No. 12886 & of 2009

Pon Krishnamurthy

... Petitioner

Vs.

1. The Director of Elementary Education
DPI Campus, College Road, Chennai-6.
2. The District Elementary Education Officer
Villupuram.
3. The Assistant Elementary Education Officer
Kallakurichi Range
Villupuram-606202.
4. Al-Rahman Elementary School (Aided)
Rep. by its Manager
Thandalai post, Kallakurichi range,
Villupuram District.
5. Mrs. Shah Ashwanth Begum
Head Misterss,
Elementary School,
Thandalai post.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus or any other appropriate writ or direction, order in the nature of writ of certiorarified Mandamus calling for the proceedings of the 2nd respondent made in Na.Ka.No.2969/E3/09 dt 05.06.2009 and quash the same, consequently direct the 4th respondent herein to appoint the petitioner as Head Master in the 4th respondent school.

For Petitioner : Mrs. Nalini Chidambaram for
Mrs.C.Uma
For Respondent : Mrs.T.Arunkumar
Addl. Govt. Pleader R1 to R3
Mr.T. Sellapandian for R4 &R5

W.P. No. 17597 of 2009

1. Pon Krishnamurthy ... Petitioner

Vs.

1. The District Elementary Education Officer
Villupuram District, Villupuram.
2. The Assistant Elementary Educational Officer
Kallakurichi Range
Villupuram District.
3. Al-Rahman Elementary School (Aided)
Rep. by its Manager
Thandalai post, Kallakurichi range,
Villupuram District



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4. Head Misterss,
Al- Rahman Elementary School (Aided),
Thandalai post, Kallalurichi Range,
Villupuram District

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari or any other appropriate writ or direction, order in the nature of writ of certiorari calling for the proceedings of the 1st respondent made in Na.Ka.No.4549/E3/2009 dated 17.08.2009 and quash the same and pass such other orders.

For Petitioner : Mrs. Nalini Chidambaram for
Mrs.C.Uma
For Respondent : Mrs. T. Arunkumar
Add. Govt. Pleader R1 & R2
Mr.T. Sellapandian for R3 & R4

W.P. No. 20123 of 2010

1. S.Ashwath Begum

... Petitioner

Vs.

1. The Director of Elementary Education
College Road, Chennai-6
2. The District Elementary Education Officer
Villupuram



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3. The Assistant Elementary Education Officer
Kallakurichi - 606202

4. The Secretary,
Al Rahman Aided Elementary School,
Thandalai
Kallakurichi-606202.

5.M.Pon Krishnamurthy
(R5 impleaded as per order dated 18.6.2012)

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the entire records connected with the impugned order of the 1st respondent in Na.Ka.No.23524/G1/09 dated 22.07.2009 and consequential order of the 2nd respondent in Na.Ka.No. 2969/E3/2009 dated 30.07.2009 and quash the same and direct the respondent 1 and 2 to approve the appropriate of the petitioners as primary school Headmaster in the 4th respondent school w.e.f. 11.06.2009 with all consequential benefits and pass such further or other orders.

For Petitioner : Mr.S.N. Ravichandran

For Respondents : Mrs. T. Arunkumar
Add. Govt. Pleader R1 to R3
Mr.T. Sellapandian for R4



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COMMON ORDER

W.P.Nos.12866 of 2009 and 17597 of 2009 are filed by the petitioner-Pon Krishnamurthy. This petitioner seeks to quash the proceedings of the 2nd respondent/District Elementary Educational officer dated 05.06.2009 in W.P.No.12886 of 2009. He also seeks to quash the order of the 1st respondent/District Elementary Educational officer dated 17.08.2009 in W.P.No.17597 of 2009.

2. W.P.No.20123 of 2010 has been filed by petitioner viz., Ashwath Begum. She was appointed as Primary School Headmaster in the 4th respondent school with effect from 11.06.2009. The petitioner sought to approve the said appointment and also seeks to quash the impugned order of the 1st respondent dated 22.07.2009 and consequential order of the 2nd respondent dated 30.07.2009, whereby, the petitioner Ashwath Begum's appointment was sought to be cancelled as the authority who granted approval is not having jurisdiction.



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3. The above two petitioners viz., Pon Krishnamurthy and Ashwath Begum are appointed as secondary grade teachers in the 4th respondent school. The 4th respondent school is an aided primary school governed by the provisions of Tamil Nadu (Recognised) Private Schools Regulation Act, 1973 and various G.Os issued from time to time.

4. A vacancy arose for the post of Head master in the 4th respondent school on 01.06.2006 due to retirement of one Aruldasan, Headmaster on 31.05.2006. Due to non-availability of eligible teachers with five years teaching experience, the said post was not filled by the school. But as a temporary arrangement and as a transitory measure, one Shajahan was appointed as Headmaster (in-charge) of the 4th respondent school from 01.06.2006. The said Shajahan who was working as Headmaster-in-charge retired from service on 31.05.2008. Since then, the post of Headmaster was vacant.

5. The Petitioner in W.P.Nos.12886/2009 and 17597/2009 was appointed as Secondary Grade Teacher on 14.03.2005 and his service was regularized on 01.06.2006. The respondent-Elementary Educational Officer issued show cause



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notice on 17.08.2009 to the petitioner asking to show cause as to why his appointment cannot be cancelled as the said appointment was not following the ratio as stipulated in G.O.Ms.No.237 School Education Department dated 05.09.2000 in respect of male teachers Vs female teachers appointment in the specified ratio.

6. Challenging the said show cause, petitioner filed W.P.No.17597 of 2009, wherein, this court granted interim stay and thereby, Pon.Krishnamurthy continued his service. The said interim order granted in favour of the petitioner was also made absolute by order dated 14.11.2011 by this court. The same petitioner filed W.P.No.12886 of 2009 challenging the proceedings of the District Elementary Educational Officer dated 05.06.2009, whereby, approval was granted to the appointment of Ashwath Begum for the post of Headmistress.

7. W.P.No.20123 of 2010 has been filed by Ashwath Begum. The averments in the said writ petition is that the 4th respondent school after following all due procedures, selected and appointed her as secondary grade school teacher vide an order dated 24.01.2008. The 2nd respondent/District



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Elementary Educational officer approved the appointment of the petitioner by proceedings dated 28.02.2008, w.e.f. 28.01.2008.

8. It is submitted by the learned counsel for the petitioner that since the post of Head Master in the 4th respondent school was vacant and eligible teachers with five years teaching experience have relinquished their promotion, the 4th respondent school sought approval of appointment of petitioner for the post of Headmaster. Petitioner also made a representation to the School Management requesting for promotion to the post of Headmaster, with undertaking that she is willing to receive Secondary Grade Scale of Pay till completion of 5 years in the event of she promoted as Headmaster.

9. The 3rd respondent by proceedings vide letter dated 22.05.2009 taking into consideration the relinquishment of promotion given by other teachers, forwarded the proposal to the 2nd respondent. The 2nd respondent, vide proceedings dated 05.06.2009 granted permission to the 4th respondent to fill up the post of Headmaster.



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10. Pursuant to the proceedings of the 2nd respondent, the 4th respondent school passed a resolution and appointed the petitioner as Headmaster vide order dated 11.06.2009.

11. However, the District Elementary Educational officer, by proceedings dated 30.07.2009 directed the 4th respondent School Management to cancel the appointment granted to Ashwath Begum. The 1st respondent- Director of Elementary Education, by proceedings dated 22.07.2009, directed the 2nd respondent to cancel the proceedings dated 05.06.2009 whereby, approval was granted to the appointment of Ashwath Begum for the post of Headmistress and consequent order dated 30.07.2009 has been passed by the 2nd respondent cancelling the appointment of Ashwath Begum as Headmistress.

12. Now coming to the facts of the instant case (W.P.No.20123/2010), Mr.S.N.Ravichandran, learned counsel for the petitioner/Ashwath Begum would submit that the order of the 1st respondent-Director of Elementary Education is unsustainable since the very proceedings was without any notice or opportunity to the petitioner as well as the 4th respondent school Management. Since the



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principles of natural justice was not adhered to, the impugned proceedings will not stand in the eye of law.

13. He would further submit that the senior most teachers working in the 4th respondent school have permanently relinquished their promotion and the same has been endorsed in their respective service registers. Only on the basis of the same, 2nd respondent-District Elementary Educational Officer granted permission to the school to promote the petitioner as Headmistress.

14. The learned counsel would further submit that the order passed by the 2nd respondent dated 05.06.2009 granted relaxation to the petitioner for the requisite condition of 5 years teaching experience and granted approval to the appointment. Therefore, the impugned order cancelling the appointment of petitioner as headmistress is not sustainable. The learned counsel for the petitioner therefore, sought to quash the impugned order of the 1st respondent dated 22.07.2009 and consequential order dated 30.07.2009 and sought to approve the appointment of the petitioner as Headmaster.



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15. The next case to which the learned counsel for the petitioner drew the attention of this court is to the letter dated 20.04.2008 given by the petitioner in W.P.Nos.12886/2009 and 175972/2009 viz., Pon Krishnamurthy that he is not willing to accept the promotion to the post of headmaster due to his family circumstances and that he will not seek for the promotion post of headmaster in future. While being so, the said Pon.Krishnamurthy given a letter dated 14.04.2010 requesting for promotion as Headmaster by withdrawing the letter of relinquishment dated 20.04.2008. As per the proceedings of the 1st respondent-Director of Elementary Education, dated 03.11.1994, the teachers who relinquished promotion will not entitle original seniority and after completion of 3 years, their seniority will be considered as on that date. Further, the said teacher tendered letter of relinquishment permanently and therefore, the subsequent request for promotion could not be accepted.

16. The learned counsel argued that the 4th respondent-School Management, after obtaining permission from the 2nd respondent-District Elementary Educational Officer, duly appointed Ashwath Begum as Headmistress by order dated 11.06.2009 and after lapse of 10 months, by letter



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dated 14.4.2010, Pon.Krishnamurthy, requested for promotion by letter dated 14.04.2010 by withdrawing his relinquishment which is not acceptable as per the proceedings of the 1st respondent dated 03.11.1994.

17. First of all, the arguments put forth by the learned senior counsel appearing for the petitioner in W.P.Nos.12886 and 17597 of 2009 is concerned, Mrs.Nalini Chidambaram, learned Senior counsel would submit that the petitioner-Pon.Krishnamurthy was appointed as Secondary Grade Teacher on 14.03.2005 in the 4th respondent school which is a minority institution. When the post of Headmaster in the school fell vacant after retirement of Mr.M.Aruldasan on 30.05.2006, the school management pressurized the senior secondary grade teachers to give a letter that they are relinquishing their right to get appointed as headmaster. Subsequently, on 20.04.2008, the petitioner given up his claim to Headmaster post. Thereafter, the petitioner vide letter dated 24.04.2008, addressed to 2nd respondent-Assistant Elementary Educational Officer and copy marked to Director, Elementary Education and District Elementary Educational officer to consider his case for the post of headmaster as he completed 5 years service as secondary grade teacher and due to coercion, he



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gave the letter of relinquishment and sought for personal enquiry. Thereafter, by series of representations, the petitioner sought to consider him for the post of headmaster. Thereafter, the District Elementary Educational officer vide proceedings dated 30.07.2009, addressed to 4th respondent management that the appointment of Ashwath Begum to the post of headmistress and the approval of the same by the Elementary School Educational officer is not sustainable as the Officer is not the competent authority to grant approval for the same. Thereby, the District Elementary Educational officer directed the 4th respondent school to take necessary action to cancel the said appointment.

18. The learned senior counsel would argue that as per the Government Order in force, secondary grade teachers has to complete 5 years service before getting promoted as headmaster. But the school has promoted Ashwath Begum to the post of headmistress within one year of her appointment and the same is not sustainable.

19. According to learned senior counsel, Pon Krishnamurthy is senior to Ashwath Begum in the post of Secondary Grade teacher and he completed more



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than 5 years service and eligible to be appointed as Headmaster. Due to arbitrary act of the Management of the 4th respondent school, in getting his daughter Ashwath Begum as Headmistress, she was promoted as headmistress.

20. Heard both sides and perused the records carefully.

21. The crucial question that has to be answered in the present cases on hand, is as to whether the appointment of Ashwath Begum as Headmaster was approved.

22. It is borne out by records that Ashwath Begum filed W.P.No.20123 of 2010 and got interim order of stay as against the order dated 22.07.2009 and 30.07.2009 passed by the Director of Elementary Education and the District Elementary Educational officer, Villupuram and has been continuing in the post of headmistress.

23. It is the admitted fact that petitioner in W.P.Nos.17597 of 2009 and 12886 of 2009 gave relinquishment letter dated 20.04.2008 that due to his family circumstances, he is not willing to accept the post of Headmaster and in future he would not seek for the same. However, thereafter, by representation to the



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authorities, stated that due to coercion he has given such undertaking letter, however, as he completed 5 years of service, he could be considered for promotion to the post of headmaster. However, there is no substantive material shown that out of coercion, Pon.Krishnamurthy gave relinquishment letter dated 20.04.2008.

24. It is also to be noted that the 3rd respondent/Assistant Elementary Educational officer, by proceedings dated 26.09.2008, recommended the proposal of appointment of Ashwath Begum to the post of headmaster to the 2nd respondent/District Elementary Educational officer, for his approval. The 2nd respondent-District Elementary Educational officer, approved the appointment of Ashwath Begum as headmistress as there was an undertaking given by her that until the completion of 5 years of service as secondary grade teacher, she will not seek for the scale of pay of headmaster and that the senior most teachers relinquished the post of headmaster and the post of headmaster was vacant from May 2006.



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25. The 3rd respondent -Assistant Elementary Educational officer, by proceedings dated 05.06.2009 given a report to fill up the post of headmaster in the 4th respondent school after recording the undertaking of Ashwath Begum and the relinquishment of Pon Krishnamurthy.

26. From the submissions made by the learned counsel on either side, it is seen that the relinquishment letter tendered by Pon.Krishnamurthy was endorsed by the Assistant Elementary Educational Officer and recorded in his service register. So, the subsequent withdrawal and request for promotion would not give any force to the claim of Pon.Krishnamurthy.

27. The appointment of Ashwath Begum as headmistress was approved by the 2nd respondent and she continued in the said post by virtue of interim order passed by this court. Only due to non-availability of teacher who completed five years service and willing to accept the post of headmaster by the senior most teachers, the promotion of Ashwath Begum to the post of headmistress was approved by the District Elementary Educational Officer. Therefore, the relaxation of experience of 5 years to Ashwath Begum was given and her



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promotion was approved. Further, she has not been paid the salary in the pay scale of headmistress till she completed 5 years service.

28. In the considered opinion of this court, the respondents having granted exemption and approval for the petitioner in W.P.No.20123 of 2010 which is not disputed by either side, the orders of the 1st and 2nd respondent dated 22.07.2009 and 30.07.2009 holding that the officer who granted approval is not having the authority, cannot be accepted because the authorities granted approval to the promotion of Ashwath Begum to the post of headmaster following the Government Orders that if there is no eligible candidates with 5 years experience in the school, the senior most teacher would be appointed as head master and necessary relaxation should be obtained from the Government.

29. For the above said reasons, W.P.No.20123 of 2010 is allowed. The respondents are directed to approve the appointment of the petitioner/Ashwath Begum who is working as headmistress from 11.06.2009 and continuing by virtue of the interim order passed by this court, as Headmistress with effect from 11.06.2009. However, Ashwath Begum is entitled to get the Headmistress salary



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only on completion of five years of teaching experience. Necessary orders to that effect shall be passed by the respondents within a period of eight weeks from the date of receipt of a copy of this order.

30. As far as W.P.No.17597 of 2009 is concerned, the impugned proceedings dated 17.08.2009 is quashed. Due to efflux of time, the ratio of male teachers vs. female teachers would have now set right and therefore, the show cause notice is a futile exercise. Further, by virtue of interim order of stay, the petitioner/Pon Krishnamurthy is continuing to serve in the 4th respondent school and therefore, the service of the petitioner need not be disturbed.

31. As far as W.P.No.12886 of 2009 is concerned, the petitioner-Pon Krishnamurthy challenged the approval granted by the District Elementary Educational officer to the appointment of Ashwath Begum to the post of headmistress. In view of the observation made in W.P.No.20123 of 2010, W.P.No.12886 of 2009 is dismissed.



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32. In the result,

W.P.No.17597 of 2009 is allowed. W.P.No.12886 of 2009 is dismissed.

W.P.No.20123 of 2010 is allowed.

No costs. Consequently, connected miscellaneous petitions are closed.

Index:Yes/No

nvsri

28.03.2023

To

1. The Director of Elementary Education
college Road, Chennai-6
2. The District Elementary Education Officer
Villupuram
3. The Assistant Elementary Education Officer
Kallakurichi 606202
4. The Secretary,
Al Rahman Aided Elementary School,
Thandalai
Kallakurichi-606202.

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