



W.A.Nos.3958, 3964, 3974, 3980 & 3981 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2023

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

and

THE HON'BLE TMT. JUSTICE K.GOVINDARAJAN THILAKAVADI

W.A.Nos.3958, 3964, 3974, 3980 & 3981 of 2019
and CMP.Nos.24859 and 24926 of 2019

W.A.No.3958 of 2019

A.Murugesan

.. Appellant

vs.

1.The Joint Director of School Education,
(Higher Secondary)
College Road, Chennai-6.

2.The Chief Educational Officer,
Tirunelveli, Kokkarakulam,
Tirunelveli District.

3.The District Educational Officer,
Tenkasi, Tirunelveli District.

4.Hindu Nadar Uravinmurai Kalvi Committee
Higher Secondary School,
Rep by its Secretary,
Nadar 1st Street, T.N.Puthukudi-627855.
Tirunelveli District.

5.Thiru A.Ramakrishnan

.. Respondents



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W.A.No.3964 of 2019

A.Murugesan

.. Appellant

vs.

1.M.Mariappan

2.The Director of School Education,
DPI Compound, College Road,
Chennai-6.

3.The Chief Educational Officer,
Tirunelveli District,
Tirunelveli.

4.The District Educational Officer,
Tenkasi, Tirunelveli District.

5.The Correspondent,
Hindu Nadar Uravinmurai Committee
Higher Secondary School,
T.N.Puthukudi, Puliyanankudi,
Tirunelveli District.

.. Respondents

W.A.No.3974 of 2019

A.Murugesan

.. Appellant

vs.

1.The Chief Educational Officer,
Tirunelveli, Kokkarakulam,
Tirunelveli District – 627 009.

2.The District Educational Officer,
Tenkasi, Tirunelveli District.



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3. Hindu Nadar Uravinmurai Committee

Higher Secondary School,

Rep by its Secretary, Mr.R.Rathnavel Pandian,

Sivaram Nadar 1st Street,

T.N.Puthukudi, Puliyanankudi,

Tirunelveli District- 627 855.

.. Respondents

W.A.No.3980 of 2019

A.Murugesan

.. Appellant

vs.

1.The Joint Director of School Education,
(Higher Secondary)
College Road, Chennai-6.

2.The Chief Educational Officer,
Tirunelveli, Kokkarakulam,
Tirunelveli District.

3.The District Educational Officer,
Tenkasi, Tirunelveli District.

4.Hindu Nadar Uravinmurai Kalvi Committee
Higher Secondary School,
Rep by its Secretary Mr.R.Rathinavel Pandian,
Sivaram Nadar 1st Street,
Pulianankudi-627 855.
Tirunelveli District.

5.Thiru R.Rathinavel Pandian

6.M.Mariappan

.. Respondents



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W.A.No.3981 of 2019

A.Murugesan

.. Appellant

vs.

1.Hindu Nadar Uravinmurai Kalvi Committee
Higher Secondary School,
Rep by its Secretary Mr.R.Rathinavel Pandian,
Sivaram Nadar 1st Street, T.N.Puthukudi,
Puliankudi-627 855.
Tirunelveli District.

2.The Chief Educational Officer,
Tirunelveli, Kokkarakulam,
Tirunelveli District.

3.The District Educational Officer,
Tenkasi, Tirunelveli District.

.. Respondents

Common Prayer: Writ Appeals filed under Clause 15 of the Letters Patent against the Common Order dated 20.11.2018 made in W.P(MD)No.14933 of 2010, W.P.(MD)No.21795 of 2016, W.P.(MD)No.12772 of 2010, W.P.No.26540 of 2010, W.P.(MD) No.7167 of 2010.

For Appellants : Mr.R.Saseetharan

For Respondents : Mr.P.Anandakumar,
Additional Government Pleader for R1 to R3
Mr.T.Pon Ramkumar for R4



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COMMON JUDGMENT

(Judgment of the Court was made by D.Krishnakumar, J.)

These writ appeals have been filed by the appellant/writ petitioner challenging the common order dated 20.11.2018 made in W.P.No.26540 of 2010; W.P.(MD)Nos.7167, 14933, 12722 of 2010 and 21795 of 2016. Since the issue involved in these writ appeals, grounds raised and the impugned common order which is under challenge are one and the same, these writ appeals are taken up together and disposed of by this common judgment. For the sake of brevity, the array of parties in W.A.No.3958 of 2019 has been adopted.

2. According to the appellant / writ petitioner, he was promoted as Post Graduate Assistant in History by the erstwhile Management and a proposal has been submitted to the educational authorities for approval of such promotion of the appellant/writ petitioner and while the said proposal is pending, the school management has changed. The writ petitioner has submitted a representation to the second respondent/Chief Educational Officer requesting to allow the appellant / petitioner to continue as PG Assistant in the promotional post and the second respondent / Chief



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Educational Officer, vide order dated 29.04.2010, has directed the third respondent / District Educational Officer to consider for the approval of the appointment of the appellant as P.G. Assistant. The said order of the second respondent was put to challenge in W.P.(MD)No.7167 of 2010 filed by the Management of the School.

3. While the W.P.(MD)No.7167 of 2010 is pending, the first respondent / Joint Director of School Education has passed an order dated 28.10.2010, purported to have been issued on an appeal filed by the petitioner on 04.02.2010, stating that teachers cannot be promoted from Primary School to Higher Secondary School way of promotion and that the appointment of the petitioner cannot be considered as promotion. The said order of the first respondent/ Joint Director of School Education was challenged by the appellant/writ petitioner in W.P.No.26540 of 2010.

4. Thereafter, the appellant / writ petitioner filed W.P.(MD)No.12272 of 2010 praying for a Mandamus directing the third respondent to implement the order of the second respondent dated 29.04.2010 as no stay has been granted as against the order dated 29.04.2010 in W.P.(MD)No.7167 of 2010,



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filed by the respondent Management. The appellant/writ petitioner also filed W.P.(MD)No.14933 of 2010 as against the order of punishment passed by the school management imposing a punishment of stoppage of two increments with cumulative effect on the ground that the appellant/writ petitioner without working in primary school, worked in P.G. Assistant for a period from 03.08.2007 to 08.04.2008 and availed medical leave for the period from 11.03.2008 to 02.06.2008.

5. An yet another writ petition in W.P.(MD) No.2127 was filed by one M.Mariappan, against the order of the third respondent dated 05.07.2016 refusing to grant approval of promotion to him to the post of PG Assistant (History) on the ground that writ petitions regarding approval of the appointment of the petitioner to the same post is pending before the High Court.

6. All the aforesaid cases revolve around the approval of appointment/promotion of the appellant/writ petitioner as P.G. Assistant in the fourth respondent school management and the various orders passed by the educational authorities were challenged in the aforesaid writ petitions.



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WEB COPY 7. According to the learned counsel appearing for the appellant, the School Management has forwarded a proposal for appointment / promotion of the petitioner as P.G. Assistant and the said proposal is pending before the third respondent / District Education Officer, who is the competent authority under the Tamil Nadu Private Schools Regulation Act, 1972 and the competent authority has so far not considered the approval of appointment/promotion of the petitioner as P.G. Assistant and the promotional posts have to be filled up only under Rule 15(4) of the Tamil Nadu Private Schools Regulation Act.

8. According to the respondent / school management, the appellant/writ petitioner is having requisite qualification as per Rule 15(4) of the Tamil Nadu Private Schools Regulation Act and all efforts were taken to get the approval of appointment of the petitioner before the third respondent/District Educational Officer. The learned counsel for the fourth respondent / school management has also relied upon the interim order passed in the present writ appeals dated 22.01.2020, wherein the earlier Division Bench has observed that the second respondent/Chief Educational



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Officer, prima facie, does not appear to have any role to play in the matter of grant of approval of a teacher seeking promotion and it was only the District Educational Officer who could have dealt with the matter.

9. Therefore, the competent authority is the District Educational Officer / third respondent who has to consider the proposal submitted by the respondent school management dated 22.04.2008. Though the appellant/writ petitioner has made all efforts before the authorities concerned seeking consideration of approval of his promotion as PG Assistant, the fact remains that the said request has not been considered by the authorities concerned. The learned Judge has not considered these aspects in proper perspective. The claim of the appellant/writ petitioner is only for consideration of approval of his promotion as PG Assistant in the fourth respondent school and if the fourth respondent school management makes any objection, the same shall also be considered by the third respondent / District Education Officer.

10. According to the appellant/writ petitioner, he has been relieved from the post of Secondary Grade Teacher immediately after promotion and



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joined in the promotional post of PG Assistant and merely because approval of his promotion has not been granted and the management of the fourth respondent school has also changed, he has not been permitted to attend the school and therefore, the appellant / writ petitioner has filed W.P.(MD) No.12272 of 2010 seeking for a direction to the third respondent to implement the order of the second respondent dated 29.04.2010 and at present, the appellant/writ petitioner is neither working as a Secondary Grade Teacher nor a PG Assistant.

11. In reply, learned counsel for the fourth respondent/school management has strongly objected by submitting that the petitioner worked as Secondary Grade Teacher and the erstwhile school management has appointed / promoted him as PG Assistant without following any rules and as per Rule 15(4) of the Tamil Nadu Private Schools Regulation Act, 1974, the petitioner has to work as B.T. Assistant in the High School in order to be considered eligible for promotion as PG Assistant, but the petitioner, being ineligible to be considered for promotion has filed the writ petition in W.P.(MD) No.7167 of 2010, challenging the order of the Chief Educational Officer dated 29.04.2010.



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WEB COPY 12. The petitioner has not so far made any objection before the third respondent/District Education Officer, who is the competent authority to consider for approval of the appointment / promotion of the petitioner as PG Assistant.

13. In the light of the fact that DEO is the competent authority to consider for approval of the appointment/promotion of the appellant/writ petitioner as PG Assistant and that as per Rule 15(4) of the Tamil Nadu Private Schools Regulation Act, 1974, promotion to the post of PG Assistant are considered from only among BT Assistants who worked in High Schools, this Court is of the view that the fourth respondent school management shall resubmit a proposal before the third respondent/District Educational Officer along with the objections and both the parties may agitate their contentions before the DEO, who shall take decision for approval of the appointment/promotion of the appellant / writ petitioner as PG Assistant, after giving opportunity to the parties concerned.



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14. It is made clear that in the event of the appointment / promotion of the petitioner as PG Assistant, not being considered for approval by the DEO, it is always open to the respondent school management to make necessary arrangements for filling up the post of PG Assistant immediately.

15. Therefore, the fourth respondent School Management shall resubmit the proposal for appointment / promotion of the appellant as PG Assistant to the third respondent/DEO, along with his objections, within a period of two weeks from the date of receipt of a copy of this order. The said objection shall be served to the petitioner by the DEO within a period of two weeks from the date of receipt of the objection. The DEO shall take final decision, after affording opportunity to the appellant/writ petitioner, school management and other aggrieved persons, if any and pass orders within a period of twelve weeks thereafter. Hence the writ appeals as against W.P.(MD)No.7167 of 2010, W.P.No.26540 of 2010 and W.P.(MD) No.12772 of 2010, namely W.A.Nos.3974, 3980 and 3981 of 2019 are disposed of with the above directions. No costs.



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16. As regards W.A.No.3964 of 2019 pertaining to W.P.(MD).No.21795 of 2016 is concerned, the writ petitioner therein, namely M.Mariappan has already attained the age of superannuation and therefore, no further orders are required in the aforesaid writ appeal. Therefore, W.A.No.3964 of 2019 stands dismissed as infructuous. No costs.

17. Insofar as W.A.No.3958 of 2019 pertaining to W.P.(MD)No.14933 of 2010 imposing punishment of stoppage of increment for two years with cumulative effect on the appellant / writ petitioner is concerned, the learned counsel for the appellant submitted that sufficient opportunity has not been granted to the petitioner before passing the order of punishment and no materials have been placed before this Court by the respondents to show that sufficient opportunity was granted to the appellant / writ petitioner and therefore, depending upon the decision to be taken by the third respondent/DEO, the school management is directed to give opportunity to the petitioner and proceed with the disciplinary proceedings. With the above directions, W.A.No.3958 of 2019 stands allowed. No costs.



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18. It is also brought to the notice of this Court that the post of Secondary Grade teacher has not been filled up by the respondent management on account of the dispute between the appellant/writ petitioner and the respondent management and therefore, the students were made to suffer for the past 14 years. Therefore, it is made clear that if the petitioner is willing, he can without prejudice to his rights, shall immediately join as Secondary Grade Teacher in the fourth respondent School Management, otherwise his post shall not be kept vacant and any appointment made to the post of Secondary Grade Teacher is subject to the outcome of the decision to be taken by the third respondent / DEO on the proposal to be resubmitted by the fourth respondent school management.

[D.K.K., J.,] [K.G.T., J.]
20.03.2023

Index : Yes / No
Internet : Yes / No
Jvm

To

1.The Joint Director of School Education, (Higher Secondary)
College Road, Chennai-6.

2.The Chief Educational Officer,
Tirunelveli, Kokkirakulam,
Tirunelveli District.



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3. The District Educational Officer,
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D.KRISHNAKUMAR, J.,
AND
K.GOVINDARAJAN THILAKAVADI, J.

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