



W.P.(MD)No.3069 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:09.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.3069 of 2020
W.M.P(MD).No.2613 of 2020

A.Arockiam

Vs.

... Petitioner

- 1.The Government of Tamil Nadu,
Rep.by its Secretary to Government,
School Educational Department,
Fort St.George, Chennai-600 009.
- 2.The Director of School Education,
DPI Compound, College Road,
Chennai.
- 3.The Joint Director of School Education Higher Secondary,
DPI Compound, College Road,
Chennai.
- 4.The Chief Educational Officer,
Ramanathapuram District.
- 5.The District Educational Officer,
Ramanathapuram Educational District,
Ramanathapuram.



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6.The Correspondent,
St.Arulanandar Higher Secondary School,
Oriyur,
Ramanathapuram District.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records pertaining to the order passed by the 2nd respondent in Na.Ka.No. 064114/W5/E1/2018 dated 26.09.2019 and quash the same and consequently direct the 2nd respondent to give upgradation post of Physical Director to the petitioner in the 6th respondent School and to pass appropriate order.

For Petitioner	: Mr.S.Mohamed Suhail for M/s.Ajmal Associates
For Respondents	: Mr.G.V.Vairom Santhosh Additional Government Pleader for R1 to R5

ORDER

This Writ Petition has been filed to call for the records pertaining to the order passed by the second respondent in Na.Ka.No.064114/W5/E1/2018 dated 26.09.2019, quash the same and consequently, direct the second respondent to give upgradation post of Physical Director to the petitioner in the sixth respondent School and



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pass appropriate orders.

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2. The case of the petitioner is that the petitioner had completed the Master of Physical Education and M.Phil., and on the basis of the said qualification, he was appointed as Physical Education Teacher in the sixth respondent School on 01.12.1992. As per G.O.(Ms).No.525, School Education Department, dated 29.12.1997, if the strength of the students in the school is over 400 in higher secondary level (11th and 12th Standards), one post of Physical Director will be given by upgradation of the existing post of Physical Education Teacher. In the sixth respondent school, the strength of the students is more than 400 from 1997 onwards and there are two Physical Education Teachers, namely, the petitioner and one Benedict of whom the petitioner is the senior most person. Therefore, the sixth respondent has recommended the respondents 4 and 5 for granting the post of Physical Director to the petitioner on many occasions. However, the respondents have not properly appreciated the case of the petitioner and rejected the same. Challenging the same, the present writ petition has been filed.



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4. Per contra, the learned Additional Government Pleader appearing for the respondents 1 to 5 would submit that in fact, G.O.(Ms).No.525, School Education Department, dated 29.12.1997 permits for upgradation of one post of Physical Education Teacher as Physical Education Director Grade-I. However, as per the subsequent order issued by the Government in G.O(Ms).No.73, School Education Department, dated 19.03.2010, one post of Physical Education Teacher can be upgraded as Physical Education Director Grade-I only if there are three sanctioned posts of Physical Education Teacher in the School and there is no provision available in the above Government Orders that one post of Physical Education Teacher can be upgraded as Physical Education Director Grade-I. Therefore, the impugned order rejecting the request of the petitioner is just and proper.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.



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6. The facts in the present case are not in dispute. The petitioner claims to be the senior most person in the post of Physical Education Teacher and he is serving as Physical Education Teacher from the year 1992 onwards. Therefore, the sixth respondent School has recommended the upgradation of the petitioner to the post of Physical Director. However, the same was rejected and challenging the same, the present writ petition has been filed.

7. The petitioner claims that as per G.O.(Ms).No.525, the sixth respondent School is entitled for upgradation of one Post of Physical Education Teacher as Physical Director. The said Government Order makes it clear that *“when the strength in classes VI to X of High Schools exceeds 250, one post of Physical Education Teacher will be sanctioned and for every additional strength of 300, one additional post of Physical Education Teacher will be sanctioned subject to a maximum of 3”*. Admittedly, in the sixth respondent School, the strength of the students in classes VI to X is more than 700 and therefore, as per the above said Government Order, they are entitled for two posts of Physical Education



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Teacher and in Clause (f) of recommendation (II) of the said Government Order, it has been stated that “*for Schools with a strength of over 400, one post of Physical Director will be given by upgradation of existing post of Physical Education Teacher*”. The petitioner claims that in the sixth respondent School, the strength of the students in 11th and 12th Standards is more than 560. Hence, as per the Government Order, the sixth respondent School is entitled to one post of Physical Director by upgradation of the existing post of Physical Education Teacher and the said Government Order does not prohibit the sixth respondent School for acquiring two posts of Physical Education Teacher and one post of Physical Director. However, the said Government Order is silent in respect of three posts sanctioned. Hence, the impugned order passed by the second respondent in Na.Ka.No.064114/W5/E1/2018, dated 26.09.2019 is quashed and the respondents are directed to re-consider the case of the petitioner in terms of G.O.(Ms).No.525, School Education (D1) Department, dated 29.12.1997 and pass appropriate orders on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.



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8. Accordingly, this Writ Petition is allowed. No costs. Connected miscellaneous petition is also closed.

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NCC:Yes/No
Index:Yes/No
Internet:Yes/No
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M.DHANDAPANI,J.

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