



W.P.(MD)No.14952 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.14952 of 2020

D.Samuel Edison

... Petitioner

Vs.

- 1.The Government of Tamil Nadu
Represented by its Secretary,
Department of Education,
St.George Fort, Chennai-600009.
- 2.The Director of School Education,
College Road, Chennai-9.
- 3.The District Educational Officer,
Thenkasi District, Thenkasi.
- 4.The Block Educational Officer,
Alankulam, Thenkasi District.
- 5.The Secretary,
Arisan Middle School,
Keelakalangal,
Alankulam, Thenkasi District.

... Respondents



W.P.(MD)No.14952 of 2020

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents to approve the petitioner appointment as Secondary Grade Teacher from the date i.e., from 09.02.1998 with all service and monitory benefits, by considering the petitioner's representation dated 07.09.2020, within a stipulated time that may be stipulated by this Court.

For Petitioner : Mr.Aayiram K.Selvakumar
For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

This writ petition has been filed for issuance of a writ of Mandamus, directing the respondents to approve the petitioner's appointment as Secondary Grade Teacher from 09.02.1998 with all service and monitory benefits, by considering the petitioner's representation dated 07.09.2020.

2. The case of the petitioner is that he was appointed as Secondary Grade Teacher in Harijan Middle School, Keelakalagal in the year 1998.



W.P.(MD)No.14952 of 2020

WEB COPY

However, his appointment was not approved and the Assistant Elementary Educational Officer, Alankulam, Tirunelveli has passed an order on 14.10.2014. Challenging the same, the petitioner has filed a writ petition in W.P.(MD).No.17426 of 2014. This Court, by order dated 17.04.2015, directed the petitioner to approach the District Elementary Educational Officer, Tirunelveli by way of representation and also directed the District Elementary Educational Officer to consider the request of the petitioner and pass orders on merits and in accordance with law. Thereafter, the private Management forwarded a proposal to the third respondent for approval of appointment on 15.05.2015. However, no order has been passed. Hence, the petitioner has made a representation to the respondents on 07.09.2020. But there was no response. Hence, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that this Court may issue a direction to the third respondent to consider the petitioner's representation dated 07.09.2020 and pass appropriate orders.



W.P.(MD)No.14952 of 2020

WEB COPY

4. Per contra, the learned Additional Government Pleader appearing for the respondents 1 to 4 would submit that Clause (iii) of the G.O.(Ms).No.155 stated that B.Ed., qualified teachers appointed in Secondary Grade vacancies by aided schools from 11.07.1995 to 19.05.1998 are not entitled to salary from the date of their initial appointment, since they were appointed contrary to G.O.(Ms).No.559, dated 11.07.1995 and their appointments cannot be approved and the salary would be paid only from the date of completion of one month Child Psychology Training, in view of the Division Bench judgment reported in 2002 Writ L.R.173 and 2004-2-L.W.591. He would further submit that the issue raised by the petitioner has already been elaborately dealt with by the Division Bench of this Court. The petitioner has prayed to quash the G.O.(Ms.).No.155, dated 03.10.2002 insofar Clause (iii) and Clause (viii) are concerned in the writ petition. The Division Bench of this Court has elaborately gone into the issue and rendered a judgment and the same is also reported in 2004 2 LW 591. There is no special and extraordinary circumstances to take a different view in this matter. The writ appeal in W.A.No.978 of 2016 filed by the



W.P.(MD)No.14952 of 2020

aggrieved teachers stands dismissed on 07.02.2018. The Writ Appeal along with R.A.No.49 of 2019 were dismissed. The S.L.P. was also dismissed on 21.10.2019. The issue has attained finality and no further appeal is possible. Hence, the request of the petitioner to release salary for the period from 09.02.1998 to 01.06.2003 was rejected by the District Elementary Educational Officer, Tirunelveli on 26.10.2015. Aggrieved by the same, the petitioner again filed this writ petition on the same ground. Hence, he prayed for dismissal of this writ petition.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 4.

6. The facts in the present case are not in dispute. Admittedly, the petitioner was appointed as Secondary Grade Teacher in the sixth respondent School in the year 1998. Thereafter, the petitioner's appointment proposal was sent to the fourth respondent and the same was returned citing the G.O.(Ms).No.559, dated 11.07.1995, wherein the Government banned appointing B.Ed., graduates to the post of Secondary Grade Teachers at



W.P.(MD)No.14952 of 2020

WEB COPY

aided Schools. Subsequently, based on G.O.(Ms).No.155, dated 03.10.2002, the petitioner's appointment was approved with effect from 02.06.2003, on completion of Child Psychology Training not from the date of his appointment. The petitioner has challenged the G.O.(Ms).No.155, dated 03.10.2002 and this Court, by order dated 17.04.2015, issued a direction to the District Elementary Educational Officer, Tirunelveli to consider the request of the petitioner and pass appropriate orders. Pursuant to which, the petitioner has made a representation to the third respondent and the third respondent has rejected the same on the ground that the petitioner's appointment is contrary to G.O.(Ms.).No.155, dated 11.07.1995 and the salary would be paid only from the date of completion of one month Child Psychology Training in terms of G.O.(Ms).No.115, dated 03.10.2002, since the petitioner was appointed as Secondary Grade Teacher, while he was in possession of B.Ed., degree. The said order was challenged before the Division Bench of this Court in W.A.(MD).No.3442 of 2002. Based on the order of Division Bench, the petitioner's request was rejected on 26.10.2015 by the third respondent. However, without challenging the order passed by the third respondent, filing the present writ petition is not sustainable one.



W.P.(MD)No.14952 of 2020

Hence, the prayer sought for by the petitioner cannot be granted.

Accordingly, this Writ Petition is dismissed. No costs.

03.02.2023

NCC: Yes/No

Index : Yes / No

Speaking Order : Yes / No

akv

To

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W.P.(MD)No.14952 of 2020

M.DHANDAPANI,J.

akv

W.P.(MD)No.14952 of 2020

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