



W.P.(MD).No.21991 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.21991 of 2023

A.Auston Jeyadoss

... Petitioner

Vs.

- 1.The Joint Secretary (Aided),
O/o. The Joint Director (Aided),
New Building-IIInd Floor,
DPI Campus, Nungambakkam,
Chennai-600 006.
- 2.The Chief Educational Officer,
O/o. The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 3.The District Educational Officer,
O/o. The District Educational Officer,
Tirunelveli,
Tirunelveli District.
- 4.The Manager,
TDTA-CSI Diocese,
Tirunelveli Diocese,
Bishop Office,
Palayamkottai,
Tirunelveli.



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5. The Correspondent,
Cathedral Higher Secondary School,
Palayamkottai,
Tirunelveli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondent no.1 to direct the Respondent No.2 and 3, to approve the appointment of the petitioner in the post of Physical Director Grade II with effect from 28.08.2018 in the Respondent No.5 School, in light of the order passed by the Honble Madurai Bench of Madras High Court in W.A.(MD).No.253 of 2009, dated 27.07.2018 within the time period stipulated by this Court.

For Petitioner : Mr.G.Karthik

For R1 -R3 : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

The present writ petition has been filed seeking direction to the Respondent no.1 to direct the Respondent No.2 and 3, to approve the appointment of the petitioner in the post of Physical Director Grade II with effect from 28.08.2018 in the Respondent No.5 School, in light of the order passed by the Honble Madurai Bench of Madras High Court in W.A.(MD).No. 253 of 2009, dated 27.07.2018 within the time period stipulated by this Court.



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2. The petitioner was appointed in the post of Physical Education Teacher on 01.08.1997 in West Tirunelveli Higher Secondary School in a sanctioned post under the 4th respondent management and thereafter, his appointment was duly approved by the respondent department. He was promoted as Physical Director Grade-II on 12.08.2008 and was posted at Cathedral Higher Secondary School, Palayamkottai / 5th respondent school. Though the petitioner was appointed in a sanctioned post, the approval of his promotion was delayed due to the dispute between the management under the 4th respondent. Thereafter, a litigation arose and it culminated in filing of writ petition in W.P(MD)No.8051 of 2008 which was dismissed by this Court, against which a writ appeal in W.A(MD)No.254 of 2009 was filed and the same was also dismissed on 27.07.2018. However, it was observed in the said order that since the petitioner was an approved Physical Education Teacher given promotion in the retirement vacancy as Physical Director, the Hon'ble Division Bench directed the school authorities to appoint him in the appropriate place as per his qualification and experience. Following the same, the 4th respondent issued an order of appointment on 28.08.2018 appointing the petitioner in the post of Physical Director Grade-II in the existing vacancy in 5th respondent school and the petitioner joined the said school on 28.08.2018 and he is serving



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till date. However, the petitioner was not paid with any salary and his promotion post is also not approved till date. The inaction of the respondents was agitated before the Administrator appointed by this Court and the 4th respondent on 12.11.2019 through letter stated that the request of the petitioner could not be considered immediately by the 5th respondent. On that basis, the same was forwarded to the respondent department for consideration. However, the said recommendation is pending endlessly without consideration.

3. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents 1 to 3. Considering the limited relief sought for in this writ petition, notice to the respondents 4 and 5 are dispensed with herein.

4. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would



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amount to dereliction of duty and hence, this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

5. Without going into the merits of the case, this Court hereby directs the 2nd and 3rd respondents to approve the appointment of the petitioner in the post of Physical Director Grade-II with effect from 28.08.2013 in the light of the order passed by this Court in W.A(MD)No.254 of 2009, dated 27.07.2018. The said exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order.

6. Accordingly, this Writ Petition stands disposed of. No costs.

11.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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To

1.The Joint Secretary (Aided),
O/o. The Joint Director (Aided),
New Building-IIInd Floor,
DPI Campus, Nungambakkam,
Chennai-600 006.



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L.VICTORIA GOWRI, J.

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- 2.The Chief Educational Officer,
O/o. The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
- 3.The District Educational Officer,
O/o. The District Educational Officer,
Tirunelveli,
Tirunelveli District.

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