



W.P.(MD)No.19299 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.19299 of 2018

and

W.M.P.(MD).No.17138 of 2018

Central Higher Secondary School,
Kayalpatnam 628 204,
Tuticorin District,
represented by its Correspondent.

... Petitioner

Vs.

1.The Chief Educational Officer,
Tuticorin District,
Tuticorin.

2.The District Educational Officer,
Tiruchendur,
Tuticorin.

3.J.Ayeesha Beevi

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for records relating to the impugned proceedings passed by the 2nd respondent



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in his proceedings in O.Mu.No.2348/A4/2018, dated 31.07.2018 and quash the same as illegal and consequently direct the respondent Nos.1 and 2 to pay the salary of the 3rd respondent for the period between 01.08.14 and 31.05.18 and other benefits thereon within the period that may be stipulated by this Court.

For Petitioner : Mr.J.Jerin Mathew

For R1 & R2 : Mr.J.Ashok

Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings passed by the 2nd respondent dated 31.07.2018 and to quash the same and consequently direct the respondent Nos.1 and 2 to pay the salary of the 3rd respondent for the period between 01.08.14 and 31.05.18 and other benefits thereon.

2. The case of the petitioner is that the petitioner is a religious minority institution recognized by the State Government and it is governed by the provisions of the Tamil Nadu Recognised Private Schools



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(Regulation) Act, 1973. In the sanctioned post of P.G. Assistant (Physics), a teacher by name A.Mujeebur was working. Since he violated the code of conduct prescribed under the Act, he was subjected to disciplinary action and a charge memo was issued on 20.02.2014 and he was placed under suspension. Thereafter, he was terminated from service. Aggrieved by the same, the said A.Mujeebur has filed a writ petition in W.P.(MD).No.10255 of 2014 before this Court. After termination, the petitioner School has appointed the third respondent as P.G. Assistant (Physics) on 01.08.2014 and forwarded a proposal for approval to the second respondent. However, the second respondent has returned the proposal on 20.10.2014, on the ground that the request of the petitioner School could be considered only after disposal of the writ petition in W.P.(MD).No.10255 of 2014. Hence, the petitioner Management has filed a writ petition in W.P.(MD).No.18146 of 2014, seeking to quash the impugned order passed by the second respondent dated 20.10.2014.

3. It is the further case of the petitioner that both the writ petitions filed by the petitioner Management as well as A.Mujeebur were taken up



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together for hearing and by an order dated 16.02.2018, this Court has allowed the W.P.(MD).No.10255 of 2014 filed by A.Mujeebur and directed the petitioner Management to reinstate the delinquent in service forthwith and dismissed the W.P.(MD).No.18146 of 2014 filed by the petitioner Management. Pursuant to the same, the said A.Mujeebur was reinstated into service. Thereafter, the petitioner Management sent a proposal to the respondents 1 and 2 on 20.06.2018, seeking to sanction salary for a period of four years in which the third respondent worked as P.G. Assistant in the petitioner Management. But the same was rejected by the impugned order of the second respondent dated 31.07.2018, on the ground that the order of termination was not communicated and the same was also not approved by the respondents.

4. The learned counsel appearing for the petitioner Management would submit that there is no need to get prior approval for termination and the provision is not applicable to the minority institution. Hence, he prayed for appropriate direction to the respondents 1 and 2 to pay grant in aid to the petitioner Management for payment of salary to the third respondent for a



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period of four years.

5. The second respondent has filed a counter stating that the petitioner Management appointed the third respondent in the post of A.Mujeebur, who was terminated from service by the petitioner Management. The proposal submitted by the petitioner School for approving the appointment of the third respondent was returned on the ground that the erstwhile teacher filed a writ petition in W.P.(MD).No.10255 of 2013 and the proposal will be considered only after the outcome of the final verdict by this Court. Further, as per Rule (iii), where a substitute is appointed in the place of teacher or other person employed in a private school kept under suspension, the Management shall not be entitled to grant in aid in respect of such substitute. Further, no appointment can be made in the disputed vacancies and no grant is admissible to the teachers appointed by the Management in such disputed posts. Hence, he prayed for dismissal of this writ petition.



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6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 and 2.

7. The facts in the present case are not in dispute. Admittedly, the petitioner Management dismissed A.Mujeebur, who worked as P.G.Assistant (Physics) in the petitioner Management. The said Mujeebur filed a writ petition before this Court challenging the termination order passed by the petitioner Management. Similarly, the petitioner Management has also filed a writ petition before this Court to approve the appointment of the third respondent. Both the writ petitions were taken up together for hearing and this Court allowed the writ petition filed by the said Mujeebur and directed the petitioner Management to reinstate the Mujeebur in the petitioner School and dismissed the writ petition filed by the petitioner Management. Pursuant to which, the petitioner Management reinstated the said Mujeebur into service. Once the writ petition filed by the petitioner Management is dismissed by this Court, with regard to the approval of appointment of the third respondent, the petitioner Management cannot seek relief before the



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respondent authority with regard to the payment of grant in aid to the third respondent and the second respondent has rightly passed the impugned order, which cannot be interfered with.

8. In the result, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

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NCC: Yes/No
Index : Yes / No
Speaking Order : Yes / No

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To

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Turicorin.
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Tiruchendur,
Tuticorin.



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