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W.P.No. 1081 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No. 1081 of 2018

and

W.M.P.No. 1304 of 2018

T. Sudalaimuthu

... Petitioner

Vs.

1.The Director of Elementary Education,
DPI Campus, College Road,
Chennai – 600 006.

2.The District Elementary Educational Officer,
Nagapattinam District,
Nagapattinam.

3.The Additional Assistant Elementary Educational Officer,
Kuthalam Union – 609 801,
Nagapattinam District.

4.The Manager/Adheena Karthar,
Thiruvavaduthurai Aheenam,
Thiruvavaduthurai – 609 803,
Nagapattinam District.

5.M. Ramesh Kumar,
BT Assistant,
Ambalavana Thesigar Middle School,
Thiruvidaimaruthur,
Thanjavur District.

... Respondents



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Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the fourth respondent in Na.Ka.No.2778/1424/Aa.4 dated 27.12.2017 and to quash the same and consequently directing the respondents to allow the petitioner to continue to work as Middle School Headmaster in the fourth respondent School with all consequential and other service benefits.

For Petitioner : Ms. M. Kaviya,
for M/S. S. Nedunchezhiyan

For Respondents : Mr. V. Manoharan, for R1
Additional Government Pleader
Mr. M. Alagu Goutham, for R2 & R3
Government Advocate
Mr. M.R. Kayilan, for R4

ORDER

Heard the learned counsel for the petitioner, the learned Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent. Inspite of service of notice, there is no representation on behalf of the fifth respondent.

2. Perused the materials available on record.

3. The case of the petitioner is that the fourth respondent School receiving grant-in-aid from the State Government, governed by the provisions of Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 and Rules 1974 made thereunder.

<https://www.mhc.tn.gov.in/judis>



4. The petitioner was appointed as Secondary Grade Teacher in the fourth respondent School on 06.05.1997. Consequently, the petitioner's appointment was approved by the second respondent by order dated 14.12.1997. The petitioner was promoted to the post of Middle School Headmaster with effect from 01.10.2009 and the said promotion was approved by the second respondent vide proceedings dated 22.10.2009. At that stage, the fourth respondent issued order dated 27.12.2017 reverting the petitioner from the post of Headmaster to the lower post of B.T.Assistant and transferred the petitioner to the post of B.T.Assistant in Ambalavana Thesigar Middle School, Thiruvudaimaruthur, Thanjavur District in the place of the fifth respondent and the fifth respondent is posted as Headmaster in the place of the petitioner. Aggrieved by the order dated 27.12.2017 issued by the fourth respondent, this writ petition has been filed.

5. On behalf of the respondents 1 to 3, a counter affidavit has been filed.

6. Learned counsel for the petitioner contends that the order impugned in this writ petition is ex-facie illegal, arbitrary and against the law and the same is liable to be quashed on the ground that without providing any opportunity to the petitioner and without following the procedure established by law, the fourth respondent has passed the impugned order. Hence, it is liable to be quashed.



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7. Learned counsel appearing for the fourth respondent submits that they have no instructions from the fourth respondent though they sent remainders to them to get counter affidavit and latest instructions in this case.

8. Learned Government Pleader appearing for the respondents 1 to 3 submit that the fourth respondent has sent a letter dated 27.12.2017 addressed to the third respondent enclosing a copy of the order dated 27.12.2017 seeking approval. But the fourth respondent has not submitted detailed proposal with justification report along with records regarding the order dated 27.12.2017. The learned Government Pleader submits that the only reason assigned for the reversion and the transfer of the petitioner is due to administrative reasons, as such the fourth respondent has to explain the specific reason and the reversion and transfer of the petitioner.

9. Having heard the submissions of the respective counsel and upon careful perusal of the materials available on record, it is an admitted fact that the fourth respondent School is governed by Tamil Nadu Recognition of Private School (Regulation) Act, 1973. Insofar as the Aided Schools are concerned, the powers for appointment, transfer and postings including promotion, reversion etc., are vested to the School Committee. But the School Committee has to follow the procedure laid down under the Rules framed under Tamil Nadu Recognition of Private School



(Regulation) Act, 1973 with regard to the service issues of the employees including teachers.

10. In the present case, on careful examination of the order impugned in this writ petition, it appears that the petitioner was de-promoted from the post of Headmaster of Thiruvavaduthurai Adheenam Middle School to Tiruvavaduthurai Adheenam Ambalavana Desiga Middle School as B.T. Assistant and the fifth respondent was promoted as Headmaster in the place of the petitioner.

11. On bare perusal of this order, there is no any doubt that no reasons are assigned for de-promoting the petitioner. Admittedly, the petitioner was working as Headmaster from 01.10.2009, as and when the fourth respondent is taking decision to de-promote the petitioner from the post of Headmaster to B.T.Assistant, the fourth respondent ought to have issued notice to the petitioner and the fourth respondent ought to have accorded an opportunity to the petitioner before taking such drastic decision, which affects the petitioner seriously. Though it is stated in the counter affidavit of the respondents 1 to 3 that due to administrative reasons, the order impugned in this writ petition is passed by the fourth respondent but the same is not reflecting in the impugned order.



12. As per the averments made in the counter affidavit filed by the respondents 1 to 3, it appears that the order of de-promotion of the petitioner passed by the fourth respondent was not approved by the third respondent till now in the absence of detailed proposal with justification report along with records from the fourth respondent, beside this, at the stage of admission, this Court by order dated 18.01.2018, ordered interim stay of impugned order until further orders, as such, in the light of the interim stay order, the petitioner is continuing as Headmaster in the same school.

13. This Court finds some force in the contention of the learned counsel for the petitioner that the order impugned in this writ petition is illegal, arbitrary and in violation of principles of natural justice, in view of the fact that without providing any opportunity to the petitioner and without following the procedure provided under law, the impugned order is passed.

14. In the considered opinion of this Court, the order impugned in this writ petition is passed by the fourth respondent is unsustainable under law, as it is against the principles of natural justice and it is liable to be quashed.



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15. Accordingly, this Writ Petition is allowed and the order impugned in this writ petition is hereby quashed.

16. Consequently, connected miscellaneous petition is closed. No costs.

12.03.2024

Index :Yes/No

Neutral Citation :Yes/No

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BATTU DEVANAND, J.

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