



W.P.No.9971 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.9971 of 2021
and W.M.P.Nos.10587 & 10591 of 2021

G.Aravind Raj

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep by its Secretary to Government,
School Education Department,
Fort St. George,
Chennai 9.

2.The Joint Director,
(Higher Secondary Vocational),
College Road, Chennai 6.

3.The Chief Educational Officer,
Tiruvannamalai District.

4.The District Educational Officer,
Tiruvannamalai District.

5.The Correspondent,
Danish Mission Higher Secondary School,
Tiruvannamalai District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of



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India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.4178/E2/2018 dated 29.05.2020 on the file of the 4th respondent and quash the same and consequently direct the respondents 1 to 4 to approve the petitioner's appointment as Vocational Instructor at the 5th respondent school with effect from 01.09.2017 and pay him salary and other benefits.

For Petitioner : Mrs.R.Dhakshini Reddy, Sr. Counsel for
Mr.C.Mahendran

For Respondents : Mr.P.Gurunathan, AGP for R1 to R4
No appearance for R5

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.4178/E2/2018 dated 29.05.2020 on the file of the 4th respondent and quash the same and consequently direct the respondents 1 to 4 to approve the petitioner's appointment as Vocational Instructor at the 5th respondent school with effect from 01.09.2017 and pay him salary and other benefits.

2. Heard Mrs.R.Dhakshini Reddy, learned Senior Counsel for



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for the petitioner and Mr.P.Gurunathan, learned Additional Government Pleader for the respondents 1 to 4.

3. The petitioner was appointed as Vocational Instructor in General Mechanist in the fifth respondent School on 01.09.2017 against the sanctioned post. The proposal sent by the fifth respondent for approving the appointment of the petitioner was returned by the fourth respondent. In the impugned order dated 29.05.2020 it is stated that the said post is a non-sanctioned post. It is further stated that as per the proceedings of the Director of School Education in Na.Ka.No.115506/W6/2012 dated 28.08.2003, instructions have been given to all the Schools not to conduct new vocational course for the academic year 2007-08 and no new Vocational Instructor to be appointed by the School management or Parent - Teacher Association. Since the petitioner has been appointed by violating the above order, the fourth respondent has not given any approval.

4. The learned Senior Counsel for the petitioner submitted that as per the sanctioned staff strength in the School for the year 2018-19, the



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full time vocational teacher post has been sanctioned in general mechanist and office management. Since the petitioner has been appointed only against the sanctioned post, the Government has to give sanction.

5. The limited objection raised by the learned Additional Government Pleader for the respondents is that even though the proposal has been returned during the month of May 2020, it has not been resubmitted so far.

6. If the proposal is pending for the simple reason of not resubmitting the same after complying the return instructions, the fifth respondent can resend the same for getting approval by attaching necessary documents. However, the Government has also taken mutual contradictory stand stating that Vocational Instructor post itself was not sanctioned as per the proceedings made in Na.Ka.No.4178/E2/2018 dated 29.05.2020. In the proceedings dated 29.05.2020, it is stated that the post of Vocational Instructor in the fifth respondent school is only on part time basis. But however, in the staff sanctioned for the year 2018-19 two vocational instructors have been sanctioned, one for general mechanist



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and another for Office Management. The petitioner has been appointed as Vocational Instructor which is a post already sanctioned to the fifth respondent School.

7. In the impugned order, it has been stated that the post sanctioned to the fifth respondent School is a part time post which is factually incorrect. So the fourth respondent cannot hold a file for the wrong reason that the post is a non-sanctioned post. In the impugned order it has been further stated that the post of Vocational Instructor has to be surrendered to the Government once the incumbent retires, dies or resigns. The above issue has been dealt in W.A.(MD) No.1494 of 2017 dated 01.03.2018, in which it is held as under :

“9.In the result, we dismiss the writ appeal for the reasons stated above and issue the following directions:

(i) The respondents 4 and 5 shall approve the appointment of Thiru.R.Kannan, Vocational Instructor, which appointment was made on 10.06.2013, as the post was very much available in terms of staff fixation order dated 29.10.2013.

(ii)In so far the Academic year 2014-2015 is concerned, the respondents 4 and 5 are directed to take note of the factual



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aspects which is admitted in the fixation order itself, namely, students strength and sanction one post with effect from the year 2014-2015 onwards in the category Vocational Instructor and the petitioner is entitled to be paid salary in the said post.

10.The above direction should be complied with within a period of 12 weeks from the date of receipt of copy of this order. Accordingly, the writ appeal fails and stands dismissed. No costs. Consequently, C.M.P.(MD)No.11921 of 2017 is also closed.”

8. Since the above position is no more *res integra* and the position of law on this point has already been settled by the above judgment of the Division Bench of this Court, the fourth respondent is not expected to return the file for the very same reason which was settled by the above referred judicial pronouncement. Since the proposal is returned, the same shall be resubmitted by the fifth respondent along with the copy of the order of this Court in order to enable the fourth respondent to do the needful for issuing the approval order with effect from the date of appointment of the petitioner.

9. In the result, this Writ Petition is allowed and the impugned



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order in Na.Ka.No.4178/E2/2018 dated 29.05.2020 on the file of the 4th respondent is quashed. The fifth respondent is directed to resubmit the proposal to the fourth respondent along with the copy of the order of this Court and on receipt of the same, the fourth respondent is directed to do the needful for issuing the approval order with effect from the date of appointment of the petitioner, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes /No
Internet : Yes/No
Speaking / Non-speaking
Neutral Citation : Yes / No
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R.N.MANJULA, J.

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To

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Chennai 9.
- 2.The Joint Director,
(Higher Secondary Vocational),
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- 3.The Chief Educational Officer,
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