



W.P.(MD).No.9728 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.04.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.9728 of 2024

P.Vadivel

... Petitioner

Vs.

1.The Chief Educational Officer,
Sivagangai District,
Sivagangai - 630 562.

2.The District Educational Officer,
Sivagangai Educational District,
Sivagangai - 630 562.

3.The Secretary,
Sri Visalakshi Kalasalai Higher Secondary School,
A.Thekkur - 630 201.
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents No.1 and 2 to consider the petitioner for promotion to the post of Postgraduate English Teacher in the 3rd respondent School in terms of Rule 28(2) of Tamil Nadu Private Schools(Regulation) Rules 2023.

For Petitioner : Mr.R.Murali

For R1 & R2 : Mr.T.Amjadkhan
Government Advocate



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ORDER

WEB COPY This Writ Petition has been filed for issuance of Writ of Mandamus, seeking direction against the respondents 1 and 2 to consider the petitioner for promotion to the post of Post Graduate English Teacher in the 3rd respondent School in terms of Rule 28(2) of Tamil Nadu Private Schools(Regulation) Rules 2023.

2. Heard Mr.R.Murali, learned counsel for the petitioner and Mr.T.Amjadkhan, learned Government Advocate for the respondents 1 and 2.

3. By consent of both the parties, the Writ Petition is taken up for final disposal at the admission stage itself.

4. Mr.R.Murali, learned counsel for the petitioner submitted that the petitioner who is a Secondary Grade Teacher working in the third respondent Aided School has acquired the qualification of M.A., English and B.Ed., The petitioner claims that as per Rule 28(2) of Tamil Nadu Private Schools (Regulation) Rules 2023, whenever an appointment is made to various categories of teaching and non teaching staff, only if the candidates are not available either for deployment or for promotion from



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the qualified staff in the feeder category, the direct recruitment can be done. The grievance of the petitioner is that despite he is qualified to be promoted to the post of P.G.Assistant, he was not considered. But the third respondent has chosen to make an appointment to the post of P.G.Assistant English through direct recruitment. Hence, the petitioner has sent representations dated 18.03.2024, 20.03.2024 and 06.04.2024 to the third respondent Management and also to the respondents 1 and 2. Since no action was taken, the petitioner approached this Court by way of filing this Writ Petition.

5. Mr.R.Murali, learned counsel for the petitioner had relied upon ***Rule 28(2) of Tamil Nadu Private Schools (Regulation) Rules 2023*** and the same is extracted hereunder:

“28.Conditions of service of staff in an aided private school.-

(1) The number of staff employed in an aided private school for the purpose of grant, shall not exceed the number of posts fixed by the competent authority, with reference to the strength of the pupils as per the norms fixed by the Government.

(2) Appointment to the various categories of teaching and non teaching staff shall be made as follows:-

(a) Teaching Staff.-



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(i) by deployment of a teacher from any other aided private school in the same cadre drawing salary out of the grant from the funds of the Government; or

(ii) if no candidate is available by method (i) above, by promotion from among the qualified teachers in the feeder categories in that school: Provided that promotion shall be made on grounds of merit and ability, seniority being considered only when merit and ability are approximately equal; or

(iii) if no candidate is available by method (ii) above, appointment from among the non-teaching staff employed in that school, provided he is fully qualified to hold the post of a teacher; or

(iv) if no candidate is available by method (iii) above, by direct recruitment;

(b) Non-Teaching Staff.-

(i) by deployment from among the incumbents from any other aided private school in the same cadre, drawing salary out of the grant from the State funds; or

(ii) if no candidate is available by method (i) above, by promotion from among the qualified incumbents in the feeder categories or holding the post carrying the lower scale of pay in that school: Provided that promotion shall be made on grounds of merit and ability, seniority being considered only when merit and ability are approximately equal; or

(iii) if no candidate is available by method (ii) above, appointment from among the incumbents holding the post



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carrying identical scale of pay of the post which has to be filled up in that school, provided he is fully qualified to hold the post; or

(iv) if no candidate is available by method(iii) above, by direct recruitment:

6. However, Mr.T.Amjadkhan, learned Government Advocate for the respondents submitted that unless the proposal is sent by the third respondent, the Government authorities cannot take any decision on the same.

7. As the petitioner has given representation dated 20.03.2024 to the respondents 1 and 2, it is open to the official respondents to call for remarks from the third respondent on the representation made by the petitioner and then pass appropriate orders by issuing proper direction to the third respondent, if it deems fit. But at the same time, the respondents 1 and 2 shall also take into consideration the above rule, if the third respondent sends any proposal for fresh appointment. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.



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WEB COPY 8. With the above direction, this Writ Petition is **disposed of**. No costs. Consequently, connected miscellaneous petition is closed.

23.04.2024

NCC:yes/no

Index:yes/no

Internet:yes/no

Nsr

To:

- 1.The Chief Educational Officer,
Sivagangai District,
Sivagangai - 630 562.
- 2.The District Educational Officer,
Sivagangai Educational District,
Sivagangai - 630 562.



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R.N.MANJULA, J.

Nsr

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