



WP(MD) Nos.14364 and 14365 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.03.2024

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THE HON'BLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P(MD)Nos.14364 and 14365 of 2021

W.P.(MD)No.14364 of 2021

R.Rangaraj

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
School Education Department ,
St. George Fort, Chennai - 09.
- 2.The Director of School Education,
College Road, Chennai.
- 3.The Joint Director of School
Education (Higher Secondary),
College Road, Chennai.
- 4.The Chief Educational Officer,
Tiruchirappalli District.
- 5.The District Educational Officer,
Tiruchirappalli District.



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6.The National College Higher Secondary School,
Rep by its Secretary, Trichy - 620002.

7.The Accountant General,
The Principal Accountant General
(Accounts and Entitlements) Tamil Nadu,
361, Anna Salai, Chennai.

... Respondents

W.P.(MD)No.14365 of 2021

S.Alexis

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
School Education Department ,
St. George Fort, Chennai - 09.

2.The Director of School Education,
College Road, Chennai.

3.The Joint Director of School
Education (Higher Secondary),
College Road, Chennai.

4.The Chief Educational Officer,
Tiruchirappalli District.

5.The District Educational Officer,
Tiruchirappalli District.

6.R.C.Higher Secondary School,
Rep by its Correspondent & Headmaster,
Trichy – 620 001.



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7. The Accountant General,
The Principal Accountant General
(Accounts and Entitlements) Tamil Nadu,
361, Anna Salai, Chennai.

... Respondents

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, calling for entire records relating to the impugned proceedings of the 3rd respondent in his proceedings in Na.Ka.No.18337/W5/E1/2014, dated ..07/2021 signed on 14/07/2021 and quash the same as illegal and consequentially to direct the 2nd respondent herein to regularise the services of the petitioner as Grade I Physical Director (Higher Secondary) on par similarly placed persons , by upgrading the petitioner's post i.e. Grade II Physical Director to Grade I Physical Director (Higher Secondary) from the date of promotion i.e. 01.06.1997 and from the date of appointment ie., 01.07.1987 with all service benefits and consequentially to refix the pensionary benefits within the time stipulated by this Court.

For Petitioner : Mr.VR.Shanmuganathan
(In both W.Ps)

For Respondents : Mr.V.Om.Prakash,
(In both W.Ps) Government Advocate for R1 to R5
Ms.S.Mahalakshmi,
Standing Counsel for R7.



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COMMON ORDER

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The petitioners in these two writ petitions, who were working as Physical Director Grade II in the respective respondent No.6 schools, on an earlier occasion approached this Court claiming upgradation of their respective posts to the post of Physical Director Grade-I Teacher but the said claim was negated by this court in W.P.(MD)Nos.552 to 557 of 2014 by an order dated 04.12.2020 holding that the petitioners have failed to establish any legal ground to claim upgradation to the post claimed by them. However, the learned single Judge made it clear that in the event of availability of the sanctioned upgraded post of Physical Director Grade I, the petitioners are at liberty to approach the competent authority for submission of proposal through proper channel and in such circumstances, the competent educational authorities are bound to consider based on the students strength and based on other factors and take a decision in accordance with law. The petitioners herein claimed to have filed writ appeals against the said order dated 04.12.2020 and the same are stated to be pending.



2. However, taking advantage of the observations made by the learned single Judge in the said order, the petitioners approached the respondent authorities claiming for upgradation. Considering the said request made by the petitioners, respondent No.3 passed the impugned orders by making a reference to G.O.Ms.No.73, School Education Department (D1), dated 19.03.2010 which provides for upgradation of one post out of three posts existing in particular school under the same management provided the student strength of the said school is more than 400 in respect of the classes 9 to 12. But rejected the claim of the petitioners without discussing as to whether the schools in which the petitioners are working satisfied the criteria under G.O.Ms.No.73, School Education Department (D1), dated 19.03.2010 or not.

3. Though the respondent No.5 filed a counter affidavit in the present Writ petitions stating that the respondent No.6 school is not having three posts of Physical Education Teacher nor eligible for upgradation of one such post to Physical Director Grade-I in terms of G.O.Ms.No.73, School Education Department (D1), dated 19.03.2010. The counter does not refer to any opportunity that is provided to the petitioners herein before passing



such orders. However, the said reason is not the basis for the respondent No.3 herein while passing the impugned orders. As seen from the impugned orders no such reason is assigned in the impugned orders for rejecting the claim of the petitioners for upgradation as sought for. As there is no reason assigned in the impugned orders nor any factual matrix are taken into consideration by the respondent No.3 while passing the impugned orders dated 14.07.2021, especially in the context of the fact that no opportunity is provided to the petitioners or to the respondent No.6, this court is if the considered view that it is a fit case where the respondent No.3 should reconsider the entire aspect by duly affording an opportunity to the petitioners herein. Further from the materials on record and as submitted by the learned counsel for the petitioners, it is noticed that the petitioners herein were already retired long back and therefore, the consideration for upgradation should be with reference to the relevant period during which the petitioners were in service.

4. In the light of the above, the impugned orders are set aside. The matter is remanded back to the respondent No.3 for fresh consideration in the light of the observations made herein by duly affording opportunity to



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the petitioner and respondent Nos.6. Respondent No.3 is directed to pass appropriate orders on remand as expeditiously as possible at any rate within a period of two months from the date of receipt of a copy of this order.

5. With the above direction, these Writ Petitions are disposed of.

There shall be no order as to costs.

06.03.2024

NCC : Yes/No

Index : Yes/No

vsm

To

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