



W.P.(MD).No.20390 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P.(MD).No.20390 of 2022
and WMP(MD) Nos.14787 & 14788 of 2022

A.Jerin Yesotha

... Petitioner

Vs

1. The State of Tamil Nadu,
Represented by its Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.
2. The Director of School Education,
College Road, Chennai - 600 006.
3. The Chief Educational Officer,
Nagercoil, Kanyakumari District.
4. The District Educational Officer
Thuckalay, Kanyakumari District.
5. The Correspondent,
All Saints Higher Secondary School,
Muttom - 629 202, Kanyakumari District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, calling for the records relating to the impugned proceedings issued by the 4th respondent/ District Educational Officer in Na.Ka. No.5527/Aa2/2017, dated 23.08.2021, quash the same and further direct the 2nd and 3rd respondents to approve forthwith the appointment of the petitioner as B.T. Assistant (History) in the 5th respondent school w.e.f. 03.07.2017, with all attendant benefits including the arrears of salary and allowance.

For Petitioners : Mr. K.Ragatheesh Kumar

For Respondents : Mr.M.Siddharthan

Additional Government Pleader

ORDER

Heard Mr.N.Sathish Babu, learned Counsel for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader, for the respondents.

2.The petitioner has filed this writ petition challenging the impugned proceedings issued by the 4th respondent / District Educational Officer in Na.Ka. No.5527/Aa2/2017, dated 23.08.2021 and to direct the 2nd and 3rd respondents to approve forthwith the appointment of the petitioner as



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B.T. Assistant (History) in the 5th respondent school w.e.f. 03.07.2017, with all attendant benefits including the arrears of salary and allowance.

3.The petitioner got appointed as a Secondary Grade Teacher on 03.07.2017. The proposal sent to approve his appointment got rejected and that is under challenge.

4.The contention of the petitioner is that during the time when his appointment was issued, the post against which he was appointed was very much available and hence the approval of his appointment, ought to have been given.

5.The learned Additional Government Pleader appearing for the respondents submitted that even at the time when the petitioner was appointed, the post was not sanctioned and hence, approval as claimed by the petitioner cannot be given and further, in order to get a post sanctioned, it is for the School, who has to initiate action. The petitioner, who is not a party to the impugned proceedings, does not have any locus standi to file this writ petition.



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6.The records would show that the proposal for approval has been sent to the Department only on 15.12.2017. During the time when the proposal was sent, the post was not available and as per the staff fixation for the academic year 2017-18, the post against which the petitioner said to have got appointed was shown blank.

7.Sofar as the locus standi of the petitioner to maintain this petition is concerned, my attention was drawn to the earlier Judgment of this Court rendered in WP(MD) No.21334 of 2018 etc., batch, wherein it is held as under:

“11.The objection on maintainability advanced by the State is also misconceived. They would argue that the petitioners have no locus standi to seek the benefits that they do now, and it is only the school that could have sought enforcement of the orders. This is also rejected as I am of the categoric view that there could none more interested in service benefits than the concerned employee himself or herself. Thus, it is certainly open to the concerned employee to move this Court for appropriate relief.”



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8.No doubt, the petitioner would be the aggrieved person. If he has got the entitlement of appointment during the relevant time and his approval is rejected for any reasons and against which, the Management failed to challenge by way of taking any legal action.

9.There is also no quarrel on the point that once the teacher is appointed to the sanctioned post, the approval cannot be refused. But the crux of the matter lies, whether on the date of appointment, the post was sanctioned and available for appointment. Even according to the petitioner, his date of appointment is 03.07.2017, which date relates to the academic year 2017-18, not to the academic year 2016-17. As per the staff fixation for the year 2017-18, the post is not available for accommodating the petitioner. When the fundamental point that the post is not available as a sanctioned post on the date of appointment would go against the petitioner and hence, the petitioner could not have had any valid ground to sustain his claim.

10.However, the petitioner has brought to the attention of the Court that the third respondent School has got sufficient student strength in order to accommodate one more B.T.Assistant and for which, the petitioner can



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be accommodated. But that part of action can be taken only by the Management. Since the petitioner is not in the Management of the School and his limited interest would play only after his appointment is made, the petitioner cannot canvass that the School has got enough student strength to sanction one more post. Even in that case, the petitioner can get his approval for his post only after the post is sanctioned through the steps taken by the Management and with effect from the date of sanctioning to the post.

11.In view of the above stated reasons, I find no merits in the writ petition. Hence, this writ petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

05.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM



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- To
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R.N.MANJULA, J.

PNM

**ORDER IN
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