



W.A.(MD).No.795 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.07.2024

CORAM

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A.(MD).No.795 of 2018
and
C.M.P.(MD).No.4708 of 2018

A.Manoharan

... Appellant / Petitioner

Vs.

1.The Joint Director of School Education,
Secondary Education,
College Road,
Chennai – 6.

2.The Chief Educational Officer,
Kanyakumari District,
Nagercoil.

3.The District Educational Officer,
Thuckalay,
Kanyakumari District.

4.The Manager,
Dr.Samuel Higher Secondary School,
Santhapuram,
Kanyakumari District – 629 201.

... Respondents/Respondents



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PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, praying to set aside the order passed by this Court in W.P.(MD).No.11644 of 2006 dated 05.10.2010.

For Appellant : Mr.B.Bharathy Kannan
For R-1 to R-3 : Mr.D.Sadiq Raja
Additional Government Pleader
For R-4 : Mr.I.G.Ivyn
for M/s.Isaac Chambers

JUDGMENT

(Judgment of the Court was made by A.D.JAGADISH CHANDIRA,J.)

This Writ Appeal has been filed against the order of the learned Single Judge passed in W.P.(MD).No.11644 of 2006 dated 05.10.2010, dismissing the Writ Petition challenging the order passed by the first respondent dated 26.04.2006 and consequently to direct the respondents to appoint the writ petitioner as B.T. Assistant History Teacher in the fourth respondent School with effect from 14.02.2002 with salary and other benefits.

2. It is the case of the writ petitioner that the writ petitioner was working as a B.T. Assistant History Teacher in the fourth respondent School



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on 24.07.2002 and during that time, 184 students were studying in the High School division in the fourth respondent School. As per G.O.Ms.No.525, School Education Department, dated 29.12.1997, in High Schools having standards IX to X, the teacher-pupil ratio has to be followed on the basis of 1:40. If the average attendance is upto 80, one Headmaster and 2 BT Assistants should be sanctioned. The third post has to be given when the strength exceeds 60 and additional sections will be permitted in the slab of 40, i.e., for every additional 40 students. It is the further case of the writ petitioner that in contrary to G.O.Ms.No.525, the first respondent had surrendered the post of BT Assistant (History) Teacher, which is illegal. Challenging the said order, the Writ Petition has been filed.

3. The learned Single Judge, finding that the writ petitioner/appellant had earlier approached this Court challenging the staff fixation order and his prayer has been rejected on the ground of laches and also finding that the learned counsel for the writ petitioner was unable to communicate the strength of students in the fourth respondent School as on the date, in consonance with G.O.Ms.No.525 dated 29.12.1997, had dismissed the Writ Petition. Aggrieved by the same, the present Writ Appeal has been filed.



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4. The learned counsel for the appellant would submit that the learned Single Judge, without calling for report from the Management as to the students' strength in the School, had rejected the prayer of the writ petitioner. He would further submit that the learned Single Judge ought to have directed the fourth respondent to give the details of teacher-pupil ratio and based on that, the learned Single Judge ought to have allowed the Writ Petition and thereby, the learned counsel seeks to set aside the order of the learned Single Judge.

5. Per contra, the learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that the appellant was appointed in the vacant post caused due to the retirement of a B.T. Assistant History Teacher and even during that time, it was a surplus post. Further, the Management has earlier challenged the order of surrendering the post as surplus before the Joint Director of School Education and the Joint Director has also confirmed the order passed by the District Educational Officer. Subsequently, the Management, who is the affected party, has not preferred any appeal or Writ Petition against the order of the Joint Director declaring the said post as surplus. That apart, the appellant has earlier challenged the



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staff fixation order declaring the B.T. Assistant History Teacher post as surplus after a period of three years in W.P.No.3861 of 2005 and this Court, finding that the order has been challenged after a period of three years and no explanation had been given in the affidavit for the laches and that the writ petitioner had not approached this Court in time, had dismissed the Writ Petition. Challenging the same, the appellant has filed a Writ Appeal in W.A.No.447 of 2005 and the Division Bench of this Court also confirmed the order of the learned Single Judge, however, had granted liberty to the appellant to participate in the appellate proceedings before the Joint Director of School Education. However, the appellant did not approach the Joint Director of School Education. While so, the Management contested in the appellate proceedings and a final order has been passed declaring the said post as surplus and the Management has not preferred any appeal against the final order. In such circumstances, the appellant has no locus standi to challenge the staff fixation order, which has been passed as early as in the year 2002. Further, the learned Single Judge finding that the appellant was unable to give the details of the students' strength, had rightly dismissed the Writ Petition and thereby, the learned Additional Government Pleader would seek for dismissal of the Writ Appeal.



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6. The learned counsel for the fourth respondent School would submit that the fourth respondent School is a minority aided School and even today, there is no sufficient strength of students in the School. Hence, the Management has no grievance against the order passed by the authorities in declaring the post of B.T. Assistant (History) as surplus.

7. Heard the learned counsels on either side and perused the materials available on record.

8. From the records, we find that the appellant has earlier challenged the staff fixation order in W.P.No.3861 of 2005 and this Court has dismissed the Writ Petition on the ground of laches vide order dated 28.04.2005. Further, in the Writ Appeal, though the appellant's claim was rejected, the appellant was granted liberty to participate in the appellate proceedings before the Joint Director of School Education. However, the appellant has not put forth his case before the Joint Director and the order declaring the post as surplus has been confirmed. Having failed to exercise the option given by the Division Bench in the Writ Appeal, the appellant is barred from



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approaching this Court seeking the same relief, which was considered and rejected in the earlier round of litigation.

9. Accordingly, the Writ Appeal stands dismissed and the order of the learned Single Judge passed in W.P.(MD).No.11644 of 2006 dated 05.10.2010 stands confirmed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

(A.D.J.C.,J.) (K.R.S.,J.)
02.07.2024

NCC : Yes / No
Index : Yes / No
Lm

To

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