



W.A.(MD)No.987 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2024

CORAM:

THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**
AND
THE HONOURABLE **MR.JUSTICE K.K. RAMAKRISHNAN**

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D.Franklin Joseph Swamidoss

...Appellant

/Vs./

- 1.The Director of Elementary Education,
Chennai – 600 006.
 - 2.The District Elementary Educational Officer,
Tirunelveli District, Tirunelveli.
 - 3.The Additional Assistant Elementary Educational Officer,
Kalakadu, Tirunelveli District.
 - 4.The Correspondent,
CMS Evangelical Middle School,
Melapattai, Kalakadu Range,
Tirunelveli District.
- ...Respondents

PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to set aside the order passed by this Court in W.P.(MD)No.14262 of 2012 dated 11.02.2015.



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For Appellant : Mr.G.Prabhu Rajadurai
For Respondents : Mr.D.Sadiq Raja (R1 to R3)
Additional Government Pleader
No appearance (R4)

JUDGMENT

(Judgment of the Court was made by **V.BHAVANI SUBBAROYAN, J.**)

The writ appeal has been preferred by the writ petitioner challenging the order passed by this Court in WP(MD)No.14262 of 2012 dated 11.02.2015, which was filed for approving the appointment of the writ petitioner in the post of BT Grade Middle School Headmaster in the fourth respondent school and also for payment of salary for the period from 01.06.2000 to 21.12.2005.

2. The case of the writ petitioner is that he was appointed as BT Grade Middle School Headmaster with effect from 01.06.2000, for which a proposal was sent by the fourth respondent to the third respondent, who in turn returned the said proposal stating that orders had



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not been passed upgrading the post of Secondary Grade Middle School Headmaster to BT Grade Middle School Headmaster. The first respondent issued proceedings dated 22.12.2005 upgrading the post of Secondary Grade Middle School Headmaster into BT Grade Middle School Headmaster and the second respondent by order dated 30.04.2008 approved the appointment of the writ petitioner with effect from 22.12.2005. Hence, the writ petitioner filed the writ petition with the aforesaid prayer.

3. The learned Single Judge of this Court was of the view that neither the writ petitioner nor the school has challenged the order of the first respondent upgrading the post of Secondary Grade Middle School Headmaster to BT Grade Middle School Headmaster with effect from 22.12.2005 and the writ petitioner obtained five years experience only on 31.05.2005 and hence, the writ petition was dismissed. It was left open to the writ petitioner to send a representation to the fourth respondent school with regard to his prayer seeking salary for certain period.



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4. The learned counsel appearing for the appellant submits that the post of BT Grade Middle School Headmaster is a sanctioned post and it is also an automated one and hence, the writ petitioner / appellant is entitled for salary for the aforesaid period and other benefits.

5. The learned Additional Government Pleader appearing for the official respondents submits that upgradation is not an automatic one. The upgradation of appointment of the writ petitioner / appellant is with effect from 22.12.2005 only and hence, the writ petitioner / appellant is entitled to salary for the said post only from that date. He further submits that the writ petitioner / appellant has obtained five years teaching experience only on 31.05.2005.

6. The learned Additional Government Pleader relied upon the judgment of the Hon'ble Supreme Court in the case of **State of Tamil Nadu & Others vs. Nehru Middle School and Another** in Civil Appeal No.1951 of 2023 dated 24.03.2023 and also the judgment of the Hon'ble



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Division Bench of this Court in the case of the **Director of Elementary Education, Chennai and Ors. vs. E.Vinolin Isabella and Anr.**, in **WA(MD)No.880 of 2020** dated **19.10.2023**.

7. Heard the rival submissions made on either side and perused the materials available on record.

8. In the judgment relied upon by the learned Additional Government Pleader in **State of Tamil Nadu & Others vs. Nehru Middle School and Another** in **Civil Appeal No.1951 of 2023** dated **24.03.2023**, it is held by the Hon'ble Apex Court that not having the requisite teaching experience of five years, the appellants have rightly refused to approve the second respondent's appointment and that the learned Single Judge as well as the Division Bench of this Court have erred in directing the appellants to approve the appointment of the second respondent.

9. On a similar occasion, this Court, in **Director of**



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Elementary Education, Chennai and Ors. vs. E.Vinolin Isabella and Anr., in **WA(MD)No.880 of 2020** dated **19.10.2023**, following the decision of the Hon'ble Supreme Court, held that the right to administer the Minority Institution would not confer any power to dispense with the educational qualifications contemplated under the Rules. Thus, the School Management is bound by the educational qualifications and experience as contemplated under the Rules while undertaking the process of appointment to the post of Headmaster / Headmistress. It is also held that a candidate possessing requisite educational qualification and experience alone would be in a position to perform his / her duty as Headmaster / Headmistress effectively and efficiently.

10. In view of the above, this Court is also of the considered view that there cannot be any appointment without having teaching experience of five years. The appointment to the post of BT Grade Middle School Headmaster is only prospective in nature and hence, there is no infirmity in the order passed by the learned Single Judge of this Court and the same does not warrant any interference.



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11. In the result, this writ appeal is dismissed. No costs.

(V.B.S.J.) & (K.K.R.K.J.)
27.02.2024

NCC :Yes/No
Index :Yes/No
Internet :Yes
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TO:-

- 1.The Director of Elementary Education,
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Judgment made in
W.A.(MD)No.987 of 2016

Dated:
27.02.2024