



W.P.(MD)No.2183 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 07.02.2025

CORAM

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.2183 of 2019

and

W.M.P.(MD)No.1747 of 2019

Justin Raj

... Petitioner

Vs.

1.The Principal Secretary,
School Education Department,
Secretariat, Fort St.George, Chennai.

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

3.The Chief Educational Officer,
Kanyakumari District,
at Nagercoil.

4.The District Educational Officer,
Thucklay Education District,
Thucklay, Kanyakumari District.

5.The Correspondent,
St.Peter's R.C.Higher Secondary School,
Chekkal, Thirparappu (Post),
Kanyakumari District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records



W.P.(MD)No.2183 of 2019

pertaining to the impugned order in Na.Ka.No.3439 of 2018 dated 28.08.2018 passed by the fourth respondent and quash the same and consequently direct the respondents to approve the petitioner's appointment and disburse the salary and other monetary and terminal benefits in the light of the judgment in W.P.No.415, 436 of 1989 dated 24.03.2008 and G.O.Ms.No.40 dated 04.03.2014 School Education Department within the time stipulated by this Court.

For Petitioner : Mr.M.R.Sreenivasan

For R1 to R4 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader.

For R5 : Mr.K.Ragatheesh Kumar,
for M/s.Isaac Chamber.

ORDER

This writ petition has been filed to quash the impugned order in Na.Ka.No.3439 of 2018 dated 28.08.2018 passed by the fourth respondent and quash the same and consequently direct the respondents to approve the petitioner's appointment and disburse the salary and other monetary and terminal benefits in the light of the judgment in W.P.No. 415, 436 of 1989 dated 24.03.2008 and G.O.Ms.No.40 dated 04.03.2014 School Education Department within a time frame.



W.P.(MD)No.2183 of 2019

WEB COPY

2.It is stated in the affidavit that the petitioner was appointed as Craft Teacher (Agriculture) in the fifth respondent School on 18.01.1988. He attained superannuation on 31.05.2010. The fifth respondent School is a Christian Minority Institution and which has been getting aid from the Government and the aid was given till 01.11.1987. Thereafter, the aid was stopped by the Government. Hence, several writ petitions were filed by the Management of the Minority Institutions before the Madras High Court and the fifth respondent has also filed W.P.No.425, 436 of 1989, which were allowed. The Government has taken the matter upto Hon'ble Supreme Court and the Hon'ble Supreme Court has affirmed the judgment of this Court and directed the State Government to disburse the salary to the employees of the Minority Institutions. The respondents 1 to 4 have not approved the appointment of the petitioner. The first respondent has passed a Government Order in G.O.(Ms.)No.271 dated 22.02.1990 and the sanction has accorded for the creation of certain temporary posts for the period upto 01.11.1989. The petitioner sent a representation dated 14.08.2014 to the respondents requesting to approve his appointment and disburse the arrears of salary and other benefits. The respondent did not consider the said representation and hence, the



W.P.(MD)No.2183 of 2019

petitioner preferred a writ petition in W.P.(MD)No.16779 of 2014 before this Court, which was allowed on 28.03.2018 with a direction to the fourth respondent to consider the petitioner's representation. Thereafter, the fourth respondent without considering the service records of the petitioner, passed the impugned order dated 28.08.2018 rejecting his claim. Hence, the present writ petition.

3.The learned counsel appearing on behalf of the petitioner would submit that already G.O.(Ms)No.271 dated 22.02.1990 has been issued on the basis of the order passed by this Court in WMP.No.602 of 1989 in WP.(MD)No.415 & 436 of 1989 for creation of posts in the fifth respondent School. He would further submit that similarly placed persons' who were appointed in the fifth respondent school, appointments were approved and the fourth respondent did not furnish the documents referred in the order impugned. The petitioner has served 22 years without any salary and if the petitioner's service is not approved, he will not get any pension benefits.

4.Per contra, the learned Special Government Pleader appearing on behalf of the respondents 1 to 4 would submit that the sanction of the post of Craft Instructor (Agriculture) expired on 01.11.1987 and there is



W.P.(MD)No.2183 of 2019

no continuity. The petitioner did not work in a sanctioned post and hence, the appointment of the petitioner in a non-sanctioned post is illegal. The learned Special Government Pleader also drew the attention of this Court to the counter affidavit filed by the fourth respondent, particularly in paragraph No.7 of the counter affidavit.

5.It is seen from the records that the fifth respondent School has come under the control of District Educational Officer, Thiruvattar, as per G.O.Ms.No.101, School Education Department dated 18.05.2018. The translated version of the impugned order dated 28.08.2018 is extracted hereunder:-

TRANSLATED COPY OF IMPUNGED ORDERS

Proceeding of the Thucklai District Education Officer

Na.Ka.No 3439 Al/2018- Dated 28.08.2018

Sub: *Secondary School Education- Aid School-Case*

The Action taken on the basis of the Order of the Hon'ble Madurai Bench of Madras High Court in W.P.(MD)No. 16779 of 2014 Dated 28.03.2018 filed by Justin Raj Crapt Teacher (Agriculture) of Peters R.C Higher Secondary School, Sekkal, Thucklai Educational District, Kanyakumari District.

Ref: *1.Govt. Order 991 (School Education Department)Dated 16.07.1990*



W.P.(MD)No.2183 of 2019

2.Proceedings of the Director of School Education Chennai TamilNadu Na.Ka.No. 115506/W26/2002 Dated 28.08.2003.

3.Government Order-9- School EducationDepartment Dated 06.01.2009.

4.Order in W.P.(MD)No.16779 of 2014 Dated 28.03.2018 on the file of the Hon'ble Madurai Bench of Madras High Court.

5.Proceeding of the Joint Director of School Education Na.Ka.No.034235/D1/E3/2018 Dated 07.2018.

Thiru. Justin Raj was appointed as Crapt Teacher (Agriculture) at Peters R.C.Higher Secondary School, Sekkal, Thucklai Educational Dist, Kanyakumari Dist by the Correspondent of the School on 18.01.1988, thereafter his appointment was not approved by the Thucklai District Education Officer and attained Superannuation.

Under these Circumstance he obtained an order in W.P.(MD)No.16779 of 2014 Dated 28.03.2018.

As per the Reference No-1 - Government Order, Appointment of Vocational Instructor prior permission has to be obtained from the Director of School Education.

As per Reference No-2 - Proceedings of the Director of School Education the Post of Vocational Instructor is



W.P.(MD)No.2183 of 2019

sanctioned for the individual & not sanctioned for the School, hence on attainment of superannuation by the Individual Teacher, that Post would be taken back.

Since, the prior permission is not obtained from the Director of School Education before the appointment, the petitioner is not entitled for any monetary benefits.

*District Educational Officer
Thucklai (JC)*

To:

*Justin Raj, S/o. Motchakan,
Sekkai,
Thirparappu Post - 629 161.*

Copy to:

*Joint Director of (Secondary School). Education,
Chennai.*

6.It is relevant to extract paragraph No.7 of the counter affidavit filed by the fourth respondent as follows:-

7. It is submitted that the petitioner did not work in a sanctioned post. The temporary sanction was upto 01-11-1987. There after there was no continuity sanction. The appointment itself is irregular. It is submitted that the final judgment in the Writ Petition 415 was issued on 24-03-2008. In para29 of the orders, it was specifically



W.P.(MD)No.2183 of 2019

directed that the Educational Authorities to consider the eligibility of concerned teacher to hold the post the continued right of the institution to receive aid is to be considered keeping view the relevant Government Orders applicable from time to time. It is submitted that there was no necessity to continue the post of Craft Instructor (Agriculture) and hence no orders were issued to continue the post beyond the period of temporary sanction. Hence the appointment of the petitioner in non sanctioned post is illegal. There is no merit in the prayer of the petitioner and is not sustainable in law. The Writ Petition is not maintainable in law and is liable to dismissed.

7.The learned counsel appearing for the petitioner drew attention of this Court to the order passed by this Court in W.P.(MD)Nos.21334 to 21343 of 2018 dated 27.01.2022 and would submit that the said writ petitions were filed to approve the appointment of the petitioners' service as Headmaster of Middle School in St.Joseph's Middle School, Ramanthurai, Kanyakumari District with all attendant service benefits in terms of the orders of the Division Bench of this Court dated 24.03.2008 in W.A.Nos.1329 of 2000 etc., batch and this Court vide order dated 27.01.2022 directed the respondents to implement the order of the Division Bench dated 24.03.2008, within a period of four weeks and the



W.P.(MD)No.2183 of 2019

writ petitions were posted for reporting compliance. The authorities concerned has not passed any orders till date in terms of the order of the Division Bench of this Court dated 24.03.2008.

8.It is pertinent to mention that the petitioner sent a representation dated 14.08.2014 to the respondents requesting to approve his appointment and disburse the arrears of salary and other benefits as per order passed by this Court in W.P.Nos.415, 436 of 1989 dated 24.03.2008. It is relevant to extract the paragraph Nos.14 and 15 of the order passed by this Court in W.P.(MD)Nos.21334 to 21343 of 2018 dated 27.01.2022 as hereunder:-

14.Clearly, the State is in contempt of order of the Division Bench dated 24.03.2008. When pointed out and in order to avoid action in that regard, a final opportunity of four weeks is granted as requested by learned Additional Government Pleader, to comply with order of the Division Bench dated 24.03.2008.

15.Mandamus as sought for is issued directing the respondents to implement order of the Division Bench dated 24.03.2008 within a period of four(4) weeks from today. This Writ Petition is disposed as above. No costs. Consequently, connected miscellaneous petitions are closed.



W.P.(MD)No.2183 of 2019

9.The facts of the present case is squarely applicable to the above decision of this Court. Hence, the orders passed by the fourth respondent dated 28.08.2018 is hereby quashed and the respondents are directed to implement the order of the Division Bench in W.P.Nos.415 & 436 of 1989 dated 24.03.2008, within a period of eight weeks from the date of receipt of a copy of this order.

10.In the result, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

07.02.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
gns



W.P.(MD)No.2183 of 2019

WEB COPY

To

- 1.The Principal Secretary,
School Education Department,
Secretariat, Fort St.George, Chennai.
- 2.The Director of School Education,
College Road, Chennai.
- 3.The Chief Educational Officer,
Kanyakumari District,
at Nagercoil.
- 4.The District Educational Officer,
Thucklay Education District,
Thucklay, Kanyakumari District.



WEB COPY



W.P.(MD)No.2183 of 2019

M.JOTHIRAMAN,J.

gns

W.P.(MD)No.2183 of 2019

07.02.2025