



W.P.(MD)Nos.13420 of 2021, 20709, 20710 and 22553 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 29.10.2024

Delivered On : **27.01.2025**

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.13420 of 2021, 20709, 20710 and 22553 of 2023
and

W.M.P.(MD)No.10384 of 2021, 17127, 17129, 18799 and 18800 of 2023

W.P.(MD)No.13420 of 2021 :-

A.Balamuruga Subramanian

... Petitioner

Vs.

- 1.The Director of Higher School Education,
Office of the Directorate of Higher Education,
College Road,
Nungambakkam,
Chennai - 600 007.
- 2.The Chief Educational Officer,
Office of the Chief Education,
S.V.Government Higher Secondary School,
Thevarkulam Road,
Thoothukudi.
- 3.The District Educational Officer,
Kovilpatti Educational District,
V.O.C. Higher Secondary School Compound,
Kovilpatti,
Thoothukudi District.
- 4.The Secretary
Hindu Nadar Higher Secondary School,
Kadambur,



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Kayathar-Taluk,
Thoothukudi - District.

... Respondents

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PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing these respondents 1 to 4 from appointing and approving any other person, other than this petitioner, as Head Master, of 4th respondent school.

For Petitioner : Mr.J.Parekh Kumar
For Respondents 1 to 3 : Mr.M.Sarangan,
Additional Government Pleader
For 4th Respondent : Mr.Issac Mohanlal, Senior Counsel
For M/s.Isaac Chambers

W.P.(MD)No.20709 of 2023 :-

S.S.Marimuthu

... Petitioner

Vs.

- 1.The Chief Educational Officer,
Thoothukudi District, Thoothukudi.
- 2.The District Educational Officer,
Kovilpatti Educational District, Kovilpatti,
Thoothukudi District.
- 3.The Secretary
Hindu Nadar Higher Secondary School,
Kadambur,
Kayathar Taluk,
Thoothukudi District- 628 714.

4.S.Jeyakumar

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents 1 to 4 in any manner from appointing and approving the 4th respondent namely S.Jeyakumar, who is junior to the petitioner as Head Master, in 3rd



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respondent school.

For Petitioner : Mr.J.Parekh Kumar
For Respondents 1 & 2 : Mr.M.Sarangan,
Additional Government Pleader
For Respondents 3 & 4 : Mr.Issac Mohanlal, Senior Counsel
For M/s.Isaac Chambers

W.P.(MD)No.20710 of 2023 :-

D.Thangaganesan

... Petitioner

Vs.

- 1.The Chief Educational Officer,
Thoothukudi District, Thoothukudi.
- 2.The District Educational Officer,
Kovilpatti Educational District, Kovilpatti,
Thoothukudi District.
- 3.The Secretary
Hindu Nadar Higher Secondary School,
Kadambur,
Kayathar Taluk,
Thoothukudi District- 628 714.

4.S.Jeyakumar

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents 1 to 4 in any manner from appointing and approving the 4th respondent namely S.Jeyakumar, who is junior to the petitioner as Head Master, in 3rd respondent school.

For Petitioner : Mr.J.Parekh Kumar
For Respondents 1 & 2 : Mr.M.Sarangan,
Additional Government Pleader
For Respondents 3 & 4 : Mr.Issac Mohanlal, Senior Counsel
For M/s.Isaac Chambers



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W.P.(MD)No.22553 of 2023 :-

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The Secretary,
Hindu Nadar Higher Secondary School,
Kadambur, Kayathar Taluk,
Thoothukudi District.

... Petitioner

Vs.

1.The State Government,
Rep. By its Secretary,
Department of School Education,
Fort St. George, Chennai – 600 009.

2.The Director of School Education,
DPI Campus, College Road,
Chennai – 600 006.

3.The Chief Educational Officer,
Thoothukudi District, Thoothukudi.

4.The District Educational Officer,
Kovilpatti, Thoothukudi District.

5.A.Balamuruga Subramanian

6.S.S.Marimuthu

7.D.Thangaganesan

... Respondents

(R5 to R7 are impleaded vide order
dated 24.04.2024 in W.M.P.(MD)No.7857 of 2024
in W.P.(MD)No.22553 of 2023 by RNMJ)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the Chief Educational Officer in Chief Educational Officer in O.Mu.No.2084/A3/2020, dated 27.05.2020 and O.Mu.No.5678/A3/2-2 dated 05.12.2020 and consequential proceedings of the District Educational Officer in O.Mu.No.4345/AA2/2021 dated 15.02.2022, quash the same and further direct the Chief Educational



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Officer to approve forthwith the promotion of S.Jeyakumar as Headmaster in the petitioner's School namely, Hindu Nadar Higher Secondary School, Kadambur, Thoothukudi District w.e.f. 22.01.2020 (or at any rate w.e.f. 01.09.2021) with all monetary and consequential benefits.

For Petitioner : Mr.Issac Mohanlal, Senior Counsel
For M/s.Isaac Chambers
For Respondents 1 to 4 : Mr.M.Sarangan,
Additional Government Pleader
For Respondents 5 to 7 : Mr.Ajmal Khan, Senior Counsel
For M/s.Ajmal Associates

COMMON ORDER

Prayer in W.P.(MD)Nos.13420 of 2021, 20709 and 20710 of 2023 :-

These Writ Petitions are filed, forbearing the respondents 1 to 4 in any manner from appointing and approving the 4th respondent, namely, S.Jeyakumar, who is junior to the petitioners as Head Master, in 3rd respondent school.

Prayer in W.P.(MD)No.22553 of 2023:-

2.Challenging the impugned proceeding issued by the Chief Educational Officer in O.Mu.No.2084/A3/2020, dated 27.05.2020 and O.Mu.No.5678/A3/2-2 dated 05.12.2020 and consequential proceedings of the District Educational Officer in O.Mu.No.4345/AA2/2021 dated 15.02.2022 and further direct the respondents to approve forthwith the promotion of S.Jeyakumar as Headmaster in the petitioner's School, namely, Hindu Nadar Higher Secondary School, Kadambur, Thoothukudi



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District w.e.f. 22.01.2020 (or at any rate w.e.f. 01.09.2021) with all monetary and consequential benefits.

3.For the sake of convenience, the parties herein are referred to as per the ranking in W.P.(MD)No. 22553 of 2023.

4.A post of Headmaster fell vacant in the petitioner school on 01.06.2018 due to the retirement of the then incumbent Tmt.S.Jegajothi on 31.05.2018. Following which, the school committee being the competent authority to make any appointments, in its meeting dated 04.01.2020, resolved to fill up the vacant post of Headmaster, by considering the merit and ability of the eligible teachers serving in the school. The date of selection process was scheduled on 13.01.2020. Accordingly, intimation was given to all the eligible teachers working in the school with regard to the selection process, and the same was also acknowledged by the teachers independently by affixing their respective signatures. In order to have transparency in the selection process, the school nominated two retired Headmasters who were experts in the field of education, who were in no way connected to the petitioner school for conducting the selection process. As scheduled, the selection process was conducted on 13.01.2020. Totally six teachers possessing required qualification took part in the selection process. Of which, on overall assessment of merit and ability of the candidates who took part in the selection process, the selection committee found one



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Thiru.S.Jeyakumar, PG Assistant (Commerce) as a meritorious and suitable candidate and recommended to promote him as Headmaster. The respondents 5, 6 and 7 were among the 6 persons who participated in the selection process. Upon the recommendation of the selection committee, the school committee promoted the selectee namely Thiru.S.Jeyakumar, PG Assistant (Commerce) as Headmaster and issued him with an order of appointment dated 22.01.2020. Following which, he joined as Headmaster on 22.01.2020. Thereafter, for the purpose of approval of his appointment, the petitioner school submitted necessary proposal to the Chief Educational Officer and District Educational Officer in the month of January 2020. The District Educational Officer vide proceedings dated 20.03.2020, forwarded the proposal to the Chief Educational Officer concerned. The Chief Educational Officer returned the proposal on 27.05.2020, for want of certain documents. The District Educational Officer vide proceedings in Na.Ka.No. 812/AA2/2020 dated nil-06.2020 (signed on 03.07.2020), communicated the impugned proceedings of the Chief Educational Officer dated 27.05.2020, to the petitioner school and directed to furnish certain documents. Following which, complying with the requirements sought for by the Chief Educational Officer, the petitioner School resubmitted the proposal to the Chief Educational Officer and District Educational Officer on 12.08.2020. Thereafter, the Chief Educational Officer again returned the proposal by the impugned proceedings in O.Mu.No.5678/A3/2020 dated 05.12.2020, directing the District Educational Officer to instruct the school



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to resubmit the proposal in full form by referring to his earlier proceedings dated 27.05.2020. The approval was denied by the Department again and again for want of a letter of the senior most PG Assistants relinquishing their promotion and entry to be made in the service registers in this regard. In view of the same, the petitioner school had submitted a letter dated 19.02.2021, to the Chief Educational Officer and District Educational Officer specifically stating that there is no such requirement under law to submit relinquishment letters from the senior most teachers when the selection made is based on merit and ability as per Rule 15(4) of the Tamil Nadu Private School Regulation Rules, 1973. However, the District Educational Officer again returned the proposal with the impugned proceedings in Thi.Mu.No.890/AA2/2021 dated 06.03.2021, demanding the very same details. Challenging all the three impugned proceedings of return of the proposal by the Chief Educational Officer dated 27.05.2020, 05.12.2020 and 15.02.2022, W.P.(MD)No.22553 of 2023 came to be filed.

5.The learned Senior Counsel Mr.Isaac Mohanlal appearing for the petitioner school submitted that, the school committee which is the competent authority under the relevant rules had appointed one Thiru.S.Jeyakumar who is a PG Assistant (Commerce) by virtue of the selection process, which was commenced and completed by the said committee on assessing the merit and ability of as many as six PG Assistants / eligible teachers who participated in the selection process. The



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selection process having been made by a duly constituted committee in terms of the Private School Regulation Act and the Relevant Rules, 1973, the school issued an appointment order dated 22.01.2020 to the selectee namely Thiru.S.Jeyakumar, PG Assistant (Commerce) promoting him to the post of Headmaster. Categorically contending that, the constitution of the selection committee was by incorporating three retired Headmasters and one member of the petitioner school's executive committee in terms of Rule 15 (4) of the Tamil Nadu Private School Regulation Rules, 1973, the learned Senior Counsel contended that, the selection process was conducted in a more transparent manner and appointment was made by the competent authority. The entire selection process was based on assessment of merit and ability. He further contended that, all the three impugned orders came to be passed by the Chief Educational Officer returning the proposal of the petitioner school to approve the appointment of Thiru.S.Jeyakumar as the Headmaster particularly on two grounds, that is, (i) The petitioner had acquired the degree of M.Com and B.Ed simultaneously obviously in the same year overlapping one after the other and (ii) The relinquishment letters from senior most teachers relinquishing their promotion. He further submitted that, the petitioner had pursued the Degree of B.Com during the academic years 1988-1991 and passed in the month of November 1991. Further he acquired B.Ed degree during the academic years 1995-1996 and passed out in November 1996. However as far as M.Com degree is concerned, the selectee namely, Thiru.S.Jeyakumar pursued the same



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during the academic years 1993-1995 but passed out the same during April 1996. The observation of the competent authorities in the impugned order as to the selectees qualification of M.Com and B.Ed having been acquired in an overlapping manner during the year 1996 is nothing, but the same is a misconception. The Chief Educational Officer was misconceived of the fact that the selectee had passed out M.Com and B.Ed during the same year 1996, but was ignorant of the fact that the selectee pursued M.Com during the academic years 1993-1995 and B.Ed during the academic year 1995-1996, which is certainly not overlapping. Claiming the said ground for returning the selectees proposal for approval is baseless, the learned Senior Counsel further proceeded to submit that, the requirement of relinquishment letter from the senior teachers relinquishing their promotion is unheard of, which is not a legal requirement by all means and on that basis he pressed for quashing the impugned orders.

6.As far as the Writ Petitions filed by the respondents 5, 6 and 7, the learned Senior Counsel contended that having not challenged the order of appointment made by the petitioner school by order dated 22.01.2020, all the three Writ Petitions are not maintainable as framed as long as they don't need appointment. He further categorically contended that the selection process was duly intimated and all the three respondents 5, 6 and 7 have actively participated in the selection process and on becoming unsuccessful in the selection process, they cannot retaliate and challenge the outcome of



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the selection and they are estopped from doing so only for the sole reason that they have lost the game. Further he insisted that, the respondents 5, 6 and 7 cannot seek their right of being promoted to the post of headmasters only on the basis of seniority, for under Rule 15(4) of the Tamil Nadu Private School Regulation Rules, 1973, the criteria for selection is based on merit and ability. When merit and ability is the rule and seniority is not the rule, the respondents 5, 6 and 7 cannot claim promotion negating a properly conducted selection process and pressed for allowing the Writ Petition in W.P.(MD)No.22553 of 2023 and dismiss all the other three Writ Petitions.

7.Per contra the learned Senior Counsel Mr.Ajmal Khan appearing for the respondents 5 to 7 submitted that, the selectee Thiru.S.Jeyakumar was not duly qualified for the sole reason that he had acquired the PG degree (M.Com) and B.Ed simultaneously. Further he drew my attention to the pleadings of the petitioner school in para 14 of the affidavit where it has been admitted that the selectee Thiru.S.Jeyakumar submitted a letter of resignation dated 24.04.2021 from the post of Headmaster. Later the same was placed in the school committee which was held on 25.04.2021 and was accepted. During the interregnum period, Thiru.A.Balamurugasubramanian, the 5th respondent/writ petitioner in W.P.(MD)No.13420 of 2021 was given Headmaster in Charge based on his seniority. Later the selectee Thiru.S.Jeyakumar by letter dated 24.08.2021, requested the management to allow him to continue as Headmaster, as per the selection process held on



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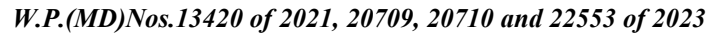
13.01.2020, following which, the same was placed in the school committee on 01.09.2021 and was accepted cancelling the school committee resolution dated 25.04.2021 and thereafter, permitted him to continue as Headmaster. Categorically contending the said exercise of permitting him to continue as Headmaster after his resignation and subsequent to his letter of withdrawal of resignation the learned Senior Counsel submitted that, once a proposal is returned, holding among the other things, when the selectee had tendered his resignation letter on 24.04.2021, the question of revocation of resignation will not arise and allowing to continue at his recourse is *per se* illegal. He further categorically contended that, the selection process conducted by the so called selection committee is nothing but an empty formality purely based on an interview, which will not stand the scrutiny of law, for the sole reason that one of the criteria for awarding high marks being preference on the basis of residence, the said exercise is completely unconstitutional and the same is against the provisions of Article 16(1) and (3) of the Constitution of India. Article 16(1) and (3) categorically bars any reservation on the basis of residence in the matter of employment. Having violated the mandates of the Constitution of India the entire selection process do not stand the scrutiny of law and on that basis pressed for dismissing W.P.(MD)No.22553 of 2023 and allowing all the other three Writ Petitions.



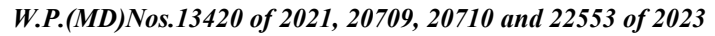
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Analysis:-

8.The petitioner School's requisition, seeking approval of the appointment of Thiru.S.Jeyakumar as Headmaster through the District Educational Officer, vide proceedings in Na.Ka.No.812/AA2/2020, dated 20.03.2020, came to be returned by the Chief Educational Officer on 5 grounds, more particularly, for the reason that the said Thiru.S.Jeyakumar pursued M.Com and B.Ed during the same academic year 1996. Further on re-submission by the petitioner School, the Chief Educational Officer, Thoothukudi, returned the proposal of the Secretary of the petitioner School dated 20.11.2020, requiring to forward the same through the District Educational Officer, Thoothukudi, by proceedings in O.M.U.No. 5678/A3/2020 dated 05.12.2020. Later, the petitioner School re-submitted the same, by letter dated 04.10.2021 and the same came to be returned by the District Educational Officer, Kovilpatti, requiring relinquishment of their promotion as Headmasters from the senior most PG Assistants serving in the said School and endorsements in that regard in the service registers of the respective senior most PG Assistants and further pointing out that one of the senior most PG Assistant, namely, Thiru.Balamurugasubramaniam has filed W.P.(MD)No.13420 of 2021 before this Court, seeking to forbear the petitioner School from appointing Thiru.S.Jeyakumar as Headmaster. Challenging all the aforesaid orders dated 27.05.2020, 05.12.2020 and 15.02.2022, the Writ Petition in W.P.(MD)No.22553 of 2022 was filed by the petitioner School.



9. In addition to the Writ Petition filed by Thiru. Balamurugasubramaniam in W.P.(MD) No. 13420 of 2021, two other PG Assistants, namely, Thiru. S. S. Marimuthu and Thiru. D. Thanga Ganesan have filed Writ Petitions in W.P.(MD) Nos. 20709 of 2023 and 20710 of 2023, forbearing the petitioner School from appointing and approving Thiru. S. Jeyakumar as Headmaster in the petitioner School. When the proposal made by the petitioner School, seeking approval of appointment of Thiru. S. Jeyakumar as Headmaster, the same came to be returned twice on 27.05.2020 and 05.12.2020, at the first instance by the Chief Educational Officer, Thoothukudi. The petitioner School rectifying the defects pointed out in the aforesaid impugned proceedings resubmitted the same on 04.10.2021. However, even according to the petitioner Schools admission in para 14 and 15 of the affidavit filed along with the Writ Petition, it could be understood that before the petitioner School forwarded the proposal for the approval of appointment of Thiru. S. Jeyakumar as Headmaster for the third time on 04.10.2021, on 24.04.2021, pursuant to the return of the petitioner School's proposal to approve the appointment of Thiru. S. Jeyakumar as Headmaster by the second impugned order dated 05.12.2020, Thiru. S. Jeyakumar had submitted a resignation letter dated 24.04.2021, from the post of Headmaster and the same was also placed in the school committee held on 25.04.2021, which was duly accepted. Later, it is understood even according to the admission made by the petitioner School



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recording the same in their respective service registers and citing the pendency of W.P.(MD)No.13420 of 2021 before this Court. Hence, the last impugned order has no mention about the qualification of the said S.Jeyakumar with respect to his qualification M.Com and B.Ed. This Court in the case of **M.Mohammed Akbar Basha versus the Registrar General**, High Court, reported in **(2016) 4 MLJ 389**, dated 05.04.2016, has dealt with a case of resignation, which was later withdrawn and the relevant portion of the same is extracted as follows:-

“9.The relinquishment of one's own right meaning 'Resignation' is conveyed by the Latin maxim 'Resignation est juris propii spontanea refutatio'. In relation to the office, resignation connotes 'to lose hold of the office' or 'to leave the job'. Indisputably, the resignation of an employee from a particular office when it was accepted by the authorities, then terminates the status of 'Master and Servant'. In Law, an employee had no Locus Paenitentiae to withdraw his offer of resignation after it was accepted.

10.In this connection, it is not out of place for this Court to make a relevant mention that the Hon'ble Supreme Court in the decision of Dr.Prabha Atri V. State of Uttar Pradesh reported in AIR 2003 SC at page 534 had observed that 'to constitute resignation the letter of resignation must be unconditional and with an intention to operate as such. Where a person submits a resignation, then in such contingency, the question of holding an enquiry never arises and the authorities are left with no alternative but to terminate his services as per decision R.N.Mahindra V. State of Himachal Pradesh reported in AIR 1953 HP at page 125. After all, 'Resignation' is a 'Bilateral Concept'. The service of a Government servant normally stand terminated from the date on



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which the letter of resignation is accepted by the authorities as per decision Raj Narain V. Srimathi Indira Gandhi reported in AIR 1973 SC at page 1302. Moreover, acceptance of resignation does not amount to 'dismissal'."

10.This Court in the case of **M.A.Ashraf Ali, son of B.M.Sharif versus the Secretary to the Government** reported in **2009 SCC Online Madras 1559**, the Honourable Division Bench of this Court has dealt with the case of resignation and withdrawal of resignation and the relevant portion of the same is extracted as follows:-

"52. Mr.B.S.Gnanadesikan, learned Senior Counsel for Dr.Ismail submitted that the applicant can withdraw his VRS application before the effective date, and in this connection, he relied on the judgment of the Apex Court in the case of Balram Gupta Vs. Union of India reported in 1987 (Supp) SCC 228. It is undoubtedly true that in that matter the Supreme Court did allow the VRS application to be withdrawn. But, what the Court had stated in paragraph 12 is most important. Paragraph -12 of the said judgment runs as follows:

"12. In this case the guidelines are that ordinarily permission should not be granted unless the officer concerned is in a position to show that there has been a material change in the circumstances in consideration of which the notice was originally given. In the facts of the instant case such indication has been given. The appellant has stated that on the persistent and personal requests of the staff members he had dropped the idea of seeking voluntary retirement. We do not see how this could not be a good and valid reason. It is true that he was resigning and in the notice for resignation he had not



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given any reason except to state that he sought voluntary retirement. We see nothing wrong in this. In the modern age we should not put embargo upon people's choice of freedom. If, however, the administration had made arrangements acting on his resignation or letter of retirement to make other employee available for this job, that would be another matter but the appellant's offer to retire and withdrawal of the same happened in such quick succession that it cannot be said that any administrative set up or arrangement was affected. The administration has now taken a long time by its own attitude to communicate the matter. For this the respondent is to blame and not the appellant."

53. The law in this behalf has been laid down in different judgments of the Apex Court from time to time. The earliest in this behalf is in the case of Raj Kumar Vs. Union of India reported in AIR 1969 SC 180. In that matter, an I.A.S. officer had asked the government to relieve him from service. The government accepted it. However, before the communication of the order accepting resignation reached the appellant, the appellant withdrew his offer. Yet, the Supreme Court held that the appellant had no locus to withdraw his offer of resignation, after it was accepted. The Court also held that there was no rule framed under Article 309 of the Constitution of India when the resignation becomes effective.

54. In Raj Narain Vs. Smt.Indira Nehru Gandhi reported in AIR 1972 SC 1302 the Apex Court held that the services of a government servant normally stands terminated from the date on which the letter of resignation is accepted, unless there is any law to the contrary."

11. Even in the instant case, the selectee Thiru.S.Jeyakumar appointed by the petitioner School as Headmaster by the order of



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appointment, dated 20.01.2020, who joined as Headmaster on the same day, pursuant to the return of the petitioner School proposal seeking approval of Thiru.S.Jeyakumar as Headmaster by the Chief Educational Officer, Thoothukudi, on 27.05.2020 and 05.12.2020, on 24.04.2021, tendered his letter of resignation, resigning from the post of Headmaster. The same was duly accepted by the school committee of the petitioner School on 25.04.2021 and one Thiru.A.Balamurugasubramaniam was immediately given Headmaster-in-Charge to the petitioner School, based on his seniority. Later, only on the requisition of the selectee, who resigned by letter dated 24.08.2021, to allow him to continue as Headmaster, the petitioner School convened yet another school committee on 01.09.2021 and resolved to accept the selectee's requisition letter, thereby cancelling the school committee resolution dated 25.04.2021, accepting the selectee's earlier resignation letter dated 24.04.2021 and allowed him to continue as Headmaster with effect from 01.09.2021. No doubt, as far as the services of a Government servant is concerned, the same stand terminated immediately on the date when the letter of resignation is accepted. In the absence of any law to the contrary as far as with respect to the acceptance of the resignation, tendered by the selectee Thiru.S.Jeyakumar is concerned, the acceptance of his resignation by the school committee on 25.04.2021, cannot be later cancelled and the petitioner School has no *locus standi* to accept the said S.Jeyakumar's offer to withdraw his resignation, after the same was accepted by the petitioner School. Needless to state that on



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25.04.2021, when the school committee accepted the resignation letter of the S.Jeyakumar dated 24.04.2021, the status of master and servant automatically got terminated between the petitioner School and the said S.Jeyakumar, thereafter, do not have any *locus* to withdraw his offer of resignation, after the same was accepted. Hence, I have no hesitation to hold that the petitioner School cannot claim as a matter of right to re-employ the said S.Jeyakumar, after having accepted his resignation dated 24.04.2021, by a resolution of the school committee dated 25.04.2021.

12.The learned Senior Counsel for the petitioner School relying upon Rule 17-A of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974, argued that the said Rule was introduced to safeguard the interest of Teachers or other persons employed in a private School and hence, Rule 17-A prohibits any school as an internal mechanism from getting resignation letter by force. The learned Senior Counsel relied upon the judgment of the Hon'ble Division Bench of this Court in W.A.(MD)Nos.917 and 1322 of 2018 dated 14.03.2019, in the case of ***the Correspondent, RC Primary School, and another versus S.Sophie and others*** and the relevant portion of the same is extracted as follows:-

“9.It is to be seen that Rule 17-A was introduced only to safeguard the interest of the teachers or other persons employed in a private school. It empowers the authorities to ascertain as to whether there was any coercion or compulsion to give resignation. It is not uncommon to note that some private minority institutions, even at the



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time of appointment of a teacher in their school, get a resignation letter from the teacher concerned. Since teachers are put in jeopardy on several occasions, Rule 17-A was introduced to prevent such practice. Hence, Rule 17-A was introduced as an internal mechanism to prevent private schools from getting resignation letter by force. It is seen that after introducing Rule 17-A, the intimation regarding resignation letter of the teacher concerned itself should be sent by the teacher through registered post with acknowledgement due to the District Educational Officer and Inspectress of Girls' school. No teacher, employed in any private school, is supposed to give a resignation letter at any time either undated or predated. The said Rules also insist the educational agency not to insist or compel any teacher or any person employed in a private school to give resignation letter undated or predated.

10.As per Rule 17-A(4) of the Rules, the District Educational Officer cannot act upon such resignation letter of teacher or any person employed in a private school, without getting confirmation from the teacher concerned with regard to the fact that such resignation letter was obtained from the teacher concerned. No teacher shall be relieved and no substitute shall be appointed in the place of a teacher without obtaining prior approval from the District Educational officer.”

13.However, in the instant case, the resignation letter dated 24.04.2021, tendered by Thiru.S.Jeyakumar was submitted voluntarily and there was no iota of force or coercion in his exercise of tendering the said resignation. Later, the same was also duly accepted by the school committee by resolution in the school committee meeting dated 25.04.2021. Even a



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careful perusal of the withdrawal of resignation letter submitted by the said Thiru.S.Jeyakumar on 24.08.2021, would reveal that he had tendered his resignation dated 24.04.2021, voluntarily only pursuant to the return of the petitioner school's proposal twice by the Chief Educational officer, Thoothukudi. For the sake of clarity, the said letter is extracted as follows:-



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அனுப்புநர் :

செ.ஜெயக்குமார்,
முதுகலை ஆசிரியர்,
இந்து நாடார்கள் மேல்நிலைப் பள்ளி,
கடம்பூர்.

பெறுநர்:

உயர்திரு செயலர் அவர்கள்,
இந்து நாடார்கள் மேல்நிலைப் பள்ளி,
கடம்பூர்.

பொருள்: இந்து நாடார்கள் மேல்நிலைப்பள்ளி தலைமை ஆசிரியர்கள்
13.01.2020 ல் நடைபெற்ற நேர்முக தேர்வின் படி தொடர்ந்து
தலைமை ஆசிரியராக பணியாற்ற கோருதல் சார்பாக.

மதிப்பிற்குரிய ஐயா,

நான் தங்கள் பள்ளியில் 29.11.2001 முதல் தொழிற்கல்வி ஆசிரியராகவும்
01-06-2009 முதல் முதுகலை வணிகவியல் ஆசிரியராகவும் பணியாற்றி வந்தேன்.
இந்நிலையில் 1.6.2018 அன்று பள்ளியின் தலைமை ஆசிரியர் பணியிடம் காலி
ஏற்பட்டதனால் பள்ளிக்குழுவின தீர்மானத்தின்படி 01.06.2018 முதல் பொறுப்பு
தலைமை ஆசிரியராக பணியாற்றி வந்தேன். பின்னர் அப்பணியிடம் தகுதி மற்றும்
திறமை வாய்ந்த பள்ளியில் பணியாற்றும் ஆசிரியரைக் கொண்டு நிரப்புவதற்கான
தேர்வு 13.01.2020 அன்று நடைபெற்றது. அத்தேர்வில் பள்ளியில் பணியாற்றும்
அனைத்து ஆசிரியர்களும் தகுதி மற்றும் திறமையை ஆராய்ந்ததில் நான் தேர்வில்
பங்கேற்றவர்களில் அதிகபடியான தகுதி மற்றும் திறமை பெற்றிருந்த காரணத்தினால்
என்னை அப்பணியிடத்தில் நியமனம் செய்ய தேர்வுக்குழுவாய் பரிந்துரை
செய்யப்பட்டது. அதனைத் தொடர்ந்து 20.01.2020 அன்றைய பள்ளிக்குழு
தீர்மானத்தின் அடிப்படையில் 22.01.2020 முதல் என்னை மேல்நிலைப்பள்ளி தலைமை
ஆசிரியராக பதவி உயர்வு வழங்கி தீர்மானம் நிறைவேற்றப்பட்டது. அத்தேர்வின்
அடிப்படையில் நான் 22.01.2020 அன்று தலைமை ஆசிரியராக பொறுப்பேற்று
தொடர்ந்து பணிபுரிந்து வந்தேன். எனது பதவி உயர்வு ஒப்புதல் சார்ந்த கருத்துருக்களும்
ஒப்புதலுக்காக மாவட்ட முதன்மை கல்வி அலுவலருக்கு சமர்ப்பிக்கப்பட்டது. அதனால்
தொடர்ந்து ஒரு வருடத்துக்கு மேலாக எனது நியமன ஒப்புதல் கருத்துருக்கள்
நிலுவையில் வைக்கப்பட்டும் பின்னர் 6.3.2021 நாளிட்ட மாவட்ட கல்வி அலுவலரின்
செயல்முறைகளின்படி பணி உயர்வு ஒப்புதல் கருத்துரு திருப்பப்பட்டதனால்
மனமுடைந்து நான் எனது தலைமை ஆசிரியர் பணியிடத்தை பணி துறப்பு செய்ததாக
24.04.2021 அன்று கடிதம் சமர்ப்பித்தேன். அதனை ஏற்று 25.04.2021 அன்று பள்ளிக்குழு
ஏற்று பின்னர் பொறுப்பு தலைமை ஆசிரியராக திரு.ஆ.பால முருக கப்ரமணியன்
என்பவர் தற்காலிகமாக பொறுப்பேற்று 26.04.2021 முதல் பணிபுரிந்து வருகிறார்.

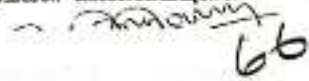
தற்பொழுது சட்ட ஆலோசனையின் படி மாவட்ட கல்வி அலுவலரால்
06.03.2021 அன்று எனது பதவி உயர்வு ஒப்புதலுக்காக சமர்ப்பிக்கப்பட்ட
கருத்துருவினை நிராகரித்ததற்கு திருப்பப்பட்டதற்கான காரணம் சொல்லத்தக்கதல்ல
என தெரிய வந்ததால் என்னை 13.01.2020 நடந்த தேர்வுக்குழுவின
பரிந்துரையின் அடிப்படையில் 20.01.2020 நாளிட்ட பள்ளிக்குழுவின தீர்மானத்தின்
அடிப்படையிலும் என்னை தொடர்ந்து நிரந்தர தலைமை ஆசிரியராக அனுமதிக்கும்
படியும் மேலும் மாவட்ட கல்வி அலுவலரின் 6.3.2021 நாளிட்ட செயல்முறைகளின்படி
சட்டதிட்டத்தின்படி மேல் நடவடிக்கை மேற்கொள்ள அனுமதிக்கும்படியும் தங்களை
தாழ்மையுடன் கேட்டுக்கொள்கிறேன்.

இடம்: கடம்பூர்

நாள்: 24.08.2021

இப்படிக்கு

தங்கள் உண்மையுள்ள


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14.No doubt, the promotion to the post of Headmaster has to take place as contemplated under Rule 15(4) of the Tamil Nadu Private Schools (Regulations) Rules, 1974. The relevant portion of the said Rule is extracted here under:-

“15.Qualifications, conditions of service of teachers and other persons. -

(4) (i) Promotion shall be made on grounds of merit and ability, seniority being considered only when merit and ability are approximately equal.

(ii) Appointments to the various categories of teachers shall be made by the following methods: -

(i) Promotion among the qualified teachers in that school.

(ii) If no qualified and suitable candidate is available by method (i) above, - (a) Appointment of other persons employed in that school, provided they are fully qualified to hold the post of teachers. (b) Appointment of teachers from any other school. (c) Direct recruitment. In the case of appointment from any other school or by direct recruitment the School Committee shall obtain the prior permission of the District Educational Officer in respect of Pre-primary, Primary and Middle School and that of the Chief Educational Officer in respect of High Schools and Higher Secondary Schools, Teacher Training Institutions setting out the reasons for such appointment. In respect of corporate body running more than one school, the schools under that body shall be treated as one unit for purpose of this rule. (d) Appointment to the post of Headmaster of Higher Secondary School shall be made by the method specified in clause (ii) either from the category of Headmasters of High Schools or Teachers' Training Institutes or from the category of Post-Graduate Assistants in academic subjects or Post-Graduate Assistants in Languages provided they possess the prescribed



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qualifications.”

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15.A careful reading of the above extracted provision would make it clear that the school committee has to find out a suitable person to be appointed to the post of Headmaster from among the serving School Teachers, based on their merit and ability. Only if the merit and ability is found to be equal, then the seniority of the respective PG Assistants have to play a major role for finalizing the promotion of the said Teachers to the post of Headmaster of Higher Secondary School. Hence, it is needless to state that the appointment to the post of Headmaster has been made following Rule 15(4) of the Tamil Nadu Private Schools (Regulation) Rules, 1974. Hence, requiring relinquishment letters from those teachers serving as PG Assistant to the post of Headmaster is unwarranted. One of the reasons for rejection of approval of appointment in the impugned order dated 15.02.2020, is the non production of relinquishment letters as mentioned supra which is without any basis. The other reason is the pendency of W.P. (MD)No.13420 of 2021 before this Court. However, I am of the considered view that even before the date of impugned order dated 15.02.2022, the said selectee Mr.S.Jayakumar submitted his resignation voluntarily out of his free will on 24.04.2021. Having accepted the same, the petitioner School cannot accept his withdrawal of resignation letter dated 24.08.2021, after a period of more than three months from the date of acceptance of resignation. Following the verdict of the Hon'ble Supreme Court reported in



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2009 SC Online Madras 1559, in the case of **M.A.Ashraf Ali**, I have no hesitation to hold that the services of the said Mr.S.Jeyakumar would stand terminated on the date of acceptance of his resignation. Hence, the question of withdrawal of resignation will not arise.

16.Accordingly the relief sought for in W.P.(MD)No.22553 of 2023 is not sustainable and the same is hereby dismissed. As far as W.P.(MD)Nos. 13420 of 2021 and 20709 and 20710 of 2023 are concerned, the Writ Petitions are disposed of, by directing the Secretary, Hindu Nadar Higher Secondary School, Kadambur, Kayathar Taluk, Thoothukudi District, to make appointment to the post of Headmaster to the said School in the vacancy, which had arisen due to the retirement of the then incumbent Tmt.S.Jegajothi on 31.05.2018, by following the procedure contemplated under Rule 15(4)(ii) of the Tamil Nadu Private Schools (Regulation) Rules, 1974. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

27.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



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To

- 1.The Secretary,
Department of School Education,
Fort St. George, Chennai – 600 009.
- 2.The Director of Higher School Education,
Office of the Directorate of Higher Education,
College Road,
Nungambakkam,
Chennai - 600 007.
- 3.The Chief Educational Officer,
Office of the Chief Education,
S.V.Government Higher Secondary School,
Thevarkulam Road,
Thoothukudi.
- 4.The District Educational Officer,
Kovilpatti Educational District,
V.O.C. Higher Secondary School Compound,
Kovilpatti,
Thoothukudi District.



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L.VICTORIA GOWRI, J.

Mrn

W.P.(MD)Nos.13420 of 2021, 20709, 20710 and 22553 of 2023

27.01.2025