



W.P(MD) No.24531 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 23.01.2025

CORAM

THE HON'BLE MS.JUSTICE R. POORNIMA

W.P(MD) No.24531 of 2016

D.Dayrvin

... Petitioner

Vs

1.The Secretary,
School Education Department,
Fort St. George,
Chennai - 06.

2.The Joint Director,
School Education Department,
College Road,
DPI Complex,
Chennai - 06.

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



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4. The Correspondent,
Pius XI Higher Secondary School,
Thoothoor,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to order made in Na.Ka.No.5432/AA2/2015 dated 27.05.2016 signed on 06.06.2016 passed by the 3rd respondent and quash the same and consequentially direct the 3rd respondent to approve the appointment of the petitioner from the date of his appointment namely 04.06.2007 onwards instead of 12.06.2009 and also direct the 3rd respondent to disburse the back wages and monetary benefits of the petitioner for the period from 04.06.2007 to 11.06.2009.

For Petitioners : Mr.C.Muthusaravanan

For Respondents : Mr.V.Omprakash – for R1 to R3
Government Advocate

Mr.M.Veilkaniraju – for R4



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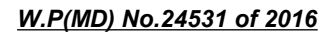
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ORDER

This Writ Petition is filed by the petitioner with a prayer to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to order made in Na.Ka.No.5432/AA2/ 2015 dated 27.05.2016 signed on 06.06.2016 passed by the 3rd respondent and quash the same and consequentially direct the 3rd respondent to approve the appointment of the petitioner from the date of his appointment namely 04.06.2007 onwards instead of 12.06.2009 and also direct the 3rd respondent to disburse the back wages and monetary benefits of the petitioner for the period from 04.06.2007 to 11.06.2009.

2. The brief facts of the case are as follows :

(a) The petitioner have completed his B.P.Ed., in Annamalai University during the year 2005 and completed his M.P.Ed., in the same University during the year 2005– 07. He was appointed as Physical Education Director in Pius XI Higher Secondary School by the fourth respondent. The fourth respondent School initially was a High School



(b) Further stated that during the period of his appointment, strength of student was 1439. Out of 1439, the student's strength 11th, 12th standards was 369 + 569. As per G.O. of the School Department, the strength of High School and Higher School is above 400 students, then School is eligible for the Physical Educational Director. At the time of his appointment, the High School and Higher Secondary School was above 400, the school was eligible to appoint him as a Physical Director of the above School in the academic year 2007–2008 District Officer scrapped the post of Physical Director as it was



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approve his appointment as Physical Director from the academic year 2007–2008, in which year he was appointed. Since no action was taken on his representation, sent a reminder on 21.06.2015 requested them to approve appointment from 04.06.2007, instead of 12.06.2009 and requested to pay his back wages and monetary benefits for the period 04.06.2007 to 11.06.2009.

(e) Further stated that his representation was received on 21.06.2015, but no action was taken by the respondent. Therefore, he had filed writ petition in W.P.(MD).No.11014 of 2015 to issue a Writ of Mandamus directing the second respondent to approve his appointment as Physical Director from the date of his appointment i.e., on 04.06.2007 instead of 12.06.2009 with all attendant benefits. The Court directed the second and third respondent to consider his representation on merits by its order dated 06.04.2016. The 3rd respondent on receipt of the said order rejected his representation vide order dated 27.05.2016. Hence, he has filed the present Writ Petition.



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3. Brief statement in the counter filed by the 3rd respondent on behalf the 1st and 2nd respondents are as follows:

(a) The fourth respondent school which is religious minority School under the control of RC Church has no Correspondent from 01.06.1999 to 03.01.2006 so the fourth respondent School was under the direct control of the District Educational Officer, Kuzhithurai from 01.06.1999 to 03.01.2006. The new Correspondent took charge on 04.01.2006 and two Physical Education Teachers were working in their Physical Education Department of the School. As per G.O.4(D)No.1 School Education Department dated 21.01.2000 one Physical Director post was allowed to School in which total strength from standard IX to XII is more than 400. On the basis of the Government Order, the existing post of Physical Education converted into Physical Director post as the total strength of the school from IX to XII was more than 400. One A.Gracy was working in that post, she got retirement on 31.05.2006.

(b) The respondents further stated that the Physical Director post was kept vacant for two years without appointing anybody from



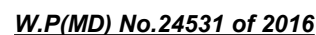
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01.06.2006 to 31.05.2008. If any post was vacant from 01.06.2006 direction would be given by Director of School Education to fill up the vacancy for the benefit of students, as such direction was issued, but no steps taken by the fourth respondent

(c) The respondent further stated that if a post is kept vacant for more than one year without giving proper explanation by the Correspondent for not filling-up the vacancy, the post will be surrendered. As such, the Correspondent of the School was also informed that the post was vacant from 01.06.2006 to 31.05.2008. But no reply was given by the Correspondent of the School. Therefore, the post was surrendered to the Government and the same was informed to the Correspondent of the School immediately.

(d) The respondents further stated that later, the proposal for approval of appointment was sent by the School authorities that the petitioner was appointed as Physical Director from 04.06.2007, which was received in the month of September, 2008. The proposal was



(e) The respondents further stated that the Correspondent in his letter dated 18.09.2008 requested the Director of School Education to re-allow the Physical Director post of the school which was surrendered. The Director of School Education after considering the request informed the same to the Chief Educational Officer, Nagercoil to allow the Physical Director post by his proceedings dated 12.06.2009.

(f) The respondents further stated that the proposal was received from the Correspondent with a request to approve the appointment of Physical Director post from 04.06.2007 again. The petitioner had written M.P.Ed., examination in May, 2007 only. The result of his examination was not published on 04.06.2007 and submitted his certificate only in the month of March 2008.

(g) The respondents therefore, stated that it is wrong to



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4. Heard the learned counsel on either and perused the materials available on record.

5. As per the contention of the petitioner, he was appointed by Physical Director on 04.06.2007 by the Correspondent of the fourth respondent School. He Further submitted that during the period of his appointment, the total strength of the students was 1439, out of 1439, the students strength of 9th, 10th, 11th, 12th standards, 369+569. He further stated that the strength of High School and Higher Secondary School strength is above 400, then such School is eligible for the post of Physical Educational Director. The petitioner enclosed the details of 11th standard students as on 01.08.2000 was 1246.

6. The Correspondent of the Pius XI Higher Secondary School in his letter dated 25.08.2008 addressed to the respondent stated that the post of Physical Director was taken back the District Educational Officer, vide letter in Na.Ka.No.5364/அ4/07 dated 17.3.2008, by stating



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95567/பிபிள் – 5/இ1/08 dated 05.11.2008 requested certain clarification and thereafter, on 12.06.2009 proceedings No.மூமூ.எண்10952/ஆ2/09 ordered that the post which was surrendered during the 2007–2008 directed to be continued and to record the same in the school register.

9. Now the respondents stated that the petitioner is not qualified for the appointment as Physical Director post on 04.06.2007.

10. On verification, it reveals from the record submitted by the petitioner shows that the petitioner completed his M.P.Ed., degree in May 2007 on campus program and secured in first class and the professional certificate was issued on 03.08.2007 by the Annamalai University.

11. Now the question arise that whether the petitioner possessed required qualification as on the date of appointment. The petitioner has completed his M.P.Ed., degree course during May 2007 and he was appointed from 01.06.2007.



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12. The Correspondent of the concerned School in his letter dated 18.09.2008 admitted that during the year 2007–2008, the total strength of students from 9th to 12th standards was above 400, and during the year 2008-2009, also it was above 400. Therefore, the School was eligible to appoint Physical Director from the year 2007–2008. Considering the relevant, the Chief Educational Officer in his proceedings dated: 12.06.2009 accepted the request of the correspondent and allowed the post of Physical Director to be continued. Therefore, the petitioner sent representation that he is entitled to get his remuneration from the year 2007-2008, during which the year, the School students strength was above 400. It is proved that the School possessed the required students during the said year. He is also possessed required qualification as on date of appointment which is reveal from the provisional Certificate issued by the Annamalai University. Therefore the petitioner is entitle for the relief as prayed for.

13. Accordingly, this writ petition is allowed. The impugned order passed by the third respondent dated 27.05.2016 is



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quashed. The third respondent is directed to approve the appointment of the petitioner from the date of appointment i.e., on 04.06.2007 and the third respondent is directed to disburse the back wages and monetary benefits of the petitioner for the period from 04.06.2007 to 11.06.2009 within a period of three months from the date of receipt of a copy of this order. No costs.

23.01.2025

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

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R.POORNIMA, J.

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