
(2010) 10 MAD CK 0187

In the Madras High Court

Case No : Writ Petition (MD) No. 8603 of 2010 and M.P. (MD) No's. 1, 2 and 2 of 2010

D. Thayalan

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 05-10-2010

Acts Referred:

Tamil Nadu Recognised Private Schools (Regulation) Act, 1973 — Section 26

Citation : (2010) 10 MAD CK 0187

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : R. Suriyanarayanan, for the Appellant; S. C. Herold Singh, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The Petitioner is working as a B.T. Assistant Mathematics in the 5th Respondent School. Aggrieved by the order passed by the 3rd Respondent, the Chief Educational Officer, Theni District, dated 22.06.2010, the Petitioner has come forward to file the present Writ petition.

2. By the impugned proceedings, the third Respondent informed the School management that in view of the students strength of the school assessed for the year 2009-2010 academic year, the staff strength has been determined in the Annexure to the impugned order. It was stated that in the said School, two teachers have become surplus in the post of Graduate Assistant. It was also stated that consequent upon the order passed by the 3rd Respondent, a consequential proceedings dated 22.06.2010 was issued redeploying the Petitioner who was a B.T. Assistant from the 5th Respondent School to Thiruvalluvar Higher Secondary School, Kudaloore.

3. Apparently, the school management is not aggrieved by the said order and even the learned Counsel who appearing for the 5th Respondent states that they

are not aggrieved by the earlier order passed by this Court in W.P.(MD) No. 1078 of 2005 and if the Petitioner is not redeemed, it is also a jeopardise the other teachers getting salary as ordered by the Government. However, the learned Counsel for the Petitioner contended that the staff strength fixed by the Respondents is illegal and there is no surplus teacher in the said school, if the calculation is made in terms of the actual student strength.

4. It is not clear as to how this Writ petition is maintainable that too by a school teacher against the staff strength fixed by the Department and in the absence of the school management. The learned Counsel for the Petitioner stated that there is no school management at present as there is a civil litigation is going on before the Civil Court with reference to the control over the management. Since his client was redeployed, he can be an aggrieved person.

5. It must be noted that the redeployment scheme have been considered by the Government so as to assess the teacher become surplus and being sent out by the management. In view of the training and scale, their services can be used in some other school and necessary provisions has been incorporated u/s 26 of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973. But for the enabling provisions and the consequential Government Orders, ordering redeployment to a teacher working in a private school, would have been rendered surplus, he will be sent out of the employment. Whereas, the present scheme contemplates that they are being absorbed in some other needy school without detrimental to the salary, status or any other terminal benefits.

6. This Court has consistently held that in the matter of grant in aid or in the matter of assessment of staff strength, a teacher cannot be aggrieved person. The relationship between the teacher and the school is in terms of a contract only and grant in aid is only an enabling provision by the State to compensate the management for running the school.

7. In the present case, even the 5th Respondent on instruction states that the Petitioner is the junior most B.T. Assistant in Mathematics and therefore, there is no further grievance that some of the juniors have been retained, overlooking the seniority of the Petitioner. In the absence of any legal or enforceable right and the Petitioner not having suffered any legal infirmity. The present Writ petition challenging the impugned proceedings of the 3rd Respondent cannot be maintained. Hence, the Writ petition stands dismissed. No costs. Consequently, connected M. Ps. are closed.

8. Pending the Writ petition, this Court ordered interim stay in M.P.(MD) No. 2 of 2010. Since the stay was not obeyed, the Contempt petition came to be filed. The contempt petition has been filed against the 3rd Respondent since this Court has found that the Petitioner has no locus standi to file the Writ petition. As there is no illegality in the redeployment order, there is no contempt made out and hence, the Contempt petition stands dismissed.

9. If the Petitioner joins in the new transferred school, the interregnum period

must be regularised since the Petitioner had the benefit of an interim order and that the Writ petition is now being rejected on grounds of locus standi. Hence, the authorities are directed to regularise the interregnum period. But such steps will be taken only if the Petitioner joins at the new station within one week from the date of receipt of the order and submit a report accordingly.