

(2002) 03 MAD CK 0144

In the Madras High Court

Case No : Writ Petition No. 1413 of 1995

S. Pushpam

APPELLANT

Vs

The District Educational Officer, Kuzhithurai Educational
District Marthandam, Kanyakumari, The Correspondent St.
Joseph Higher Secondary School, Thiruthavapuram
Kuzhithurai, K.K. District and C. Selvaraj High School
Assistant St. Joseph Higher Secondary School,
Thiruthavapuram Kuzhithurai, K.K. District

RESPONDENT

Date of Decision : 21-03-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 03 MAD CK 0144

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

**Advocate : R. Rajaram, for the Appellant; R. Rajasekaran, G.A. S.M. Joseph
Thathevs Jerome, for the Respondent**

Final Decision : Dismissed

Judgement

P.K. Misra

1. Heard the learned counsel appearing for the parties.

2. The petitioner has filed this writ petition for issuing a Writ of Certiorarified Mandamus to quash the impugned order Mu.Mu.No.11846/AA4/94 dated 16.12.1994 granting approval to the appointment of third respondent as an Assistant Headmaster in the St. Joseph Higher Secondary School, Thiruthavapura, Kuzhithurai, Kanyakumari District. The aforesaid appointment in High School is made on the basis of G.O.Ms.No.887, Education Department dated 5.6.1979. The relevant provision is contained in paragraph-2 of the aforesaid order dated 5.6.1979.

" 2. The Government after careful consideration have decided that in the High Schools or in the Higher Secondary Schools (which includes High School classes

also) with a pupils strength of 750 or more the senior most graduate or post graduate Assistant or Tamil Pandit Grade I or Physical Director getting B.T.Scale of pay available in the concerned High School or Higher Secondary School may be called as Assistant Headmaster and the special pay of Rs.25/- p.m. may be paid. They accordingly direct as follows: i) all High Schools and Higher Secondary Schools under all management viz., Government, Aided, Municipal and Corporation (Madras and Madurai) with a pupils strength of 750 or more will have an Assistant Headmaster."

The petitioner contends that he was first appointed as B.T. Assistant on 1.9.1964, whereas respondent No.3 was appointed on 26.6.1969. It is further contended that in the alternative, in any case, the petitioner was found eligible to get selection grade scale of pay earlier than the third respondent, taking into account the entire length of service of the petitioner.

3. In the counter affidavit filed on behalf of the second and third respondents, it has been indicated that the petitioner was appointed as B.T. Assistant on temporary basis on 1.9.1964 in some other school. Subsequently, he was appointed in leave vacancy on 26.6.1969 and after several breaks in his service, he was appointed in a regular vacancy only with effect from 1.6.1973, whereas the third respondent was appointed on regular basis with effect from 9.6.1969 and as such the petitioner cannot be treated as senior to the third respondent.

4. A perusal of paragraph-2 of the G.O.Ms.No.887 dated 5.6.1979 makes it clear that the appointment as Assistant Headmaster of this school is to be made on the basis of seniority in the concerned High School or Higher Secondary School and not on the basis of seniority or experience in any other High School. In the present case, the petitioner was admittedly appointed in the concerned High School after the third respondent had been appointed. Therefore, the petitioner cannot be treated as senior to the third respondent in the concerned High School.

5. The contention of the learned counsel for the petitioner that the petitioner having been granted selection grade of scale earlier to the third respondent should be treated as senior is not acceptable because such selection grade of scale is made available on the basis of total experience as teacher, not necessarily in a particular school and as such, it cannot be said that merely because the petitioner received selection grade of scale earlier, he should be treated as senior to the third respondent.

6. For the aforesaid reasons, I do not find any merit in this writ petition, which is accordingly dismissed without any order as to costs.