

S. DEVASAHAYAM AND ANR.

A

v.

JOINT DIRECTOR AND ANR.

DECEMBER 16, 2003

[S. RAJENDRA BABU AND RUMA PAL, JJ.]

B

Service Law:

Appointment—Recognized aided school—Post Graduate Assistant eligible to be appointed as Head Master—Teacher possessing Master's Degree conferred by way of certificate in a condensed Course conducted for a period of 10 months—Held, such teacher not eligible to be appointed as Head Master—Such teacher not Post Graduate Assistant and also not regular teacher in the cadre and therefore, does not belong to feeder category to the post of Head Master.

C

Appellant No. 1 was appointed as Head Master in appellant No. 2 school, a recognized aided school of Tamil Nadu Government, but the said appointment was set aside by the Appellate Authority upon an appeal filed by respondent No. 2 challenging it. Writ Petition filed by appellant No. 1 against the order of Appellate Authority was dismissed by Single Judge and thereafter Writ Appeal was also dismissed by Division Bench of the High Court. Hence this appeal.

D

E

Appellant No. 1 contended that he possesses the necessary qualifications and is entitled to be appointed as Head Master.

Dismissing the appeal, the Court

F

HELD 1. Recognized aided schools of the Government of Tamil Nadu are governed by Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and rules framed thereunder. Rule 15(4)(1)(d) provides that the post of Head Master could be filled only amongst the categories therein and they are from the category of (1) Head Masters of High Schools; (2) Post Graduate Assistants in academic subject; (3) Post Graduate Assistants in languages provided they possess the prescribed qualifications. Merely because Appellant No. 1 possesses the necessary qualifications by itself will not enable him to claim to be appointed as

G

H

A a Head Master. Appellant No. 1 claims that he possesses Master's degree in History but he had not undergone the regular course but a condensed course conducted by the Department itself for a period of 10 months and his degree is conferred by way of certificate and such teachers are held to be not in the feeder category so as to become eligible to be appointed as Head Master. Such arrangement of giving certificate to certain teachers became necessary as there was dearth of Post Graduate teachers being available in the Higher Secondary Schools. Thus, he becomes an inducted teacher and not a regular teacher in the cadre. Appellant No. 1 is not a Post Graduate Assistant and he does not come in the feeder category.

B

[946-E-F; 947-C-D, E-G]

C

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 4671-4673 of 1999.

D

From the Judgment and Order dated 30.4.1998 of the Madras High Court in W.A. 1466 of 1997, W.P. 16572/95 and CMP 16892/97.

Yashank Adiyadaru and Mrs. N. Annapoorani for the Appellants.

Ms. Revathy Raghavan, Ms. Shweta, C. Selvaraj and T. Raja for the Respondents.

E

The Judgment of the Court was delivered by

F

RAJENDRA BABU, J. : The second appellant is a recognized aided school of the Government of Tamil Nadu. Such schools are governed by Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and rules framed thereunder. All the posts coming within the Private schools are to be filled up in accordance with the provisions contained in the said Act or Rules framed thereto. The management of school appointed the first appellant as the Head Master. The second respondent filed an appeal before the Appellate Authority challenging the appellant's appointment. The Appellate Authority held that the appellant was not holding a post as P.G. Assistant which is the feeder category and, therefore, his appointment as Head Master was bad and set aside the same. Against that order, appellant preferred a writ petition before the High Court and the learned Single Judge dismissed the same against which writ appeal was also filed. The concurrent view of Appellate Authority and learned Single Judge or Division

G

H

Bench of the High Court is that respondent No. 2 is the senior most Post

Graduate Assistant and he belongs to the feeder category to the post of Head Master; that he had been appointed as a Post Graduate Assistant on regular basis and had been holding the post of Assistant Head Master; that the appellant is not fully qualified Post Graduate Assistant; that he does not belong to the Post Graduate Assistant in academic subject or languages; and that he does not belong to feeder category at all; that he is not entitled to be promoted as Head Master ignoring the claim of the second respondent.

In order to find out whether the view taken by the High Court and the Tribunal is erroneous, it is necessary to examine the matter with reference to the relevant rules. Rule 15(4)(1)(d) provides that the post of Head Master could be filled up only amongst the categories stated therein and they are from the category of (1) Head Masters of High schools; (2) Post Graduate Assistants in academic subjects; (3) Post Graduate Assistants in languages provided that they possess the prescribed qualifications. It cannot be seriously disputed that the appellant is not a Post Graduate Assistant and he does not come under the feeder category. Merely because he possesses the necessary qualifications by itself will not enable him to claim to be appointed as a Head Master. It is on this basis the Appellate Authority, the learned Single Judge of the High Court held that the appellant is not entitled to be appointed as the Head Master.

The claim made by appellant is that he possesses Master's degree in History but he had not undergone the regular course but in a condensed course conducted by the Department itself for a period of 10 months and his degree is conferred by way of certificate and such teachers are held to be not in the feeder category so as to become eligible to be appointed as Head Master. Such arrangement of giving certificates to certain teachers became necessary as there was dearth of Post Graduate teachers being available in the Higher Secondary Schools such as that of the second appellant. Thus he becomes an inducted teacher and not a regular teacher in the cadre. Bearing these aspects in mind and Appellate Authority as well as the High Court, have taken a view, we do not find this matter calls for interference in a proceeding arising under Article 136 of the Constitution.

Hence we dismiss this appeal.

A.K.T.

Appeal dismissed.

H