

CASE NO.:
Appeal (civil) 4671-4673 of 1999

PETITIONER:
S. Devasahayam & Anr.

RESPONDENT:
Joint Director & Anr.

DATE OF JUDGMENT: 16/12/2003

BENCH:
S. RAJENDRA BABU & RUMA PAL.

JUDGMENT:
J U D G M E N T

RAJENDRA BABU, J. :

The second respondent 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 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)(i)(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.