

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

Writ Petition Nos.26174 to 26176 of 2015
and M.P.Nos.1, 1, 1, 2, 2 and 2 of 2015

Ms. D.Lavanya ... Petitioner in W.P.No.26174 of 2015
Ms. L.Ancy Nathiya ... Petitioner in W.P.No.26175 of 2015
Ms. J.Uma ... Petitioner in W.P.No.26176 of 2015

Vs.

1. The Government of Tamil Nadu,
Rep. By its Secretary,
Department of School Education,
Fort St. George, Chennai - 9
 2. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006
 3. The District Educational Officer,
Office of the District Educational Officer,
Gandhi Nagar, 5th Cross Street,
Thiruvannamalai - 606 602
Thiruvannamalai District
 4. The Additional Assistant Elementary
Educational Officer, Office of the Assistant
Elementary Educational Officer,
Polur Taluk, Polur - 606 803
Thiruvannamalai District
 5. The Correspondent,
Sacred Heart Elementary School,
Polur - 606 803, Thiruvannamalai District
- ... Respondents in
all W.Ps.

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings, dated 16.02.2015 in O.Mu.Nos.146/AA4/2015; 147/AA4/2015 and 148/AA4/2015 on the file of the third respondent, to quash the same, and to direct the respondents to accord approval to the petitioners, (working in the fifth respondent / School) from the date of their appointment and to regularize their services with all consequential and monetary benefits.

For Petitioner in all W.Ps. : Mr. Fr.A.Xavier Arulraj
For Respondents in all W.Ps : Mr. R.Vijayakumar, AGP.,
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C O M M O N O R D E R

Admit. Mr.R.Vijayakumar, learned Additional Government Pleader, takes notice for respondents. By consent of the learned counsel for both sides, the writ petitions are taken up for final disposal at the admission stage itself.

2. The petitioner in W.P.No.26174 of 2015, Ms.D.Lavanya, would state that she is holding the educational qualification of Diploma in Teacher Education (D.T.Ed.,) and was appointed as Secondary Grade Teacher in the fifth respondent / School (aided by the Government), with effect from 06.06.2014, in a sanctioned and regular post, and she was given appointment, in the vacancy caused on account of one Ms.S.Sarala, on 05.06.2014. According to this petitioner, ever since the date of her appointment, she was working in the said school continuously, without break, and she is signing in the Masters' Attendance Register, from 06.06.2014. It is further averred that, Ms.S.Sarala, a Secondary Grade Teacher, resigned on 05.06.2014, A.N. and was relieved with effect from 05.06.2014 and therefore, the said post became vacant on 06.06.2014 and hence, a proposal has been moved by the fifth respondent for appointing the petitioner herein in the sanctioned post. It is stated that the petitioner has passed Teachers Eligibility Test (TET) conducted during August 2013 in Roll No.13TE56107636 and secured 88 marks and was declared successful, by the Teachers Recruitment Board. However, the third respondent has returned the said request on the ground that the writ petition filed by Ms.S.Sarala is pending and also called for an explanation, in that regard, from the fourth respondent. It is further stated that, no doubt, Ms.S.Sarala has filed W.P.No.21079 of 2013 praying to quash the order passed by the fourth respondent, with a consequential prayer to accord approval for her appointment as Secondary Grade Teacher, in the fifth respondent school. But, subsequently, the said writ petition was dismissed as withdrawn on 17.06.2014 and hence, there cannot be any impediment on the part of respondents 1 to 4 to accord approval to the petitioner in respect of the sanctioned post and hence, prays for appropriate orders.

3. The petitioner in W.P.No.26175 of 2015, Ms.L.Ancy Nathiya, would state that she is holding the educational qualification of Diploma in Teacher Education (D.T.Ed.,) and was appointed as Secondary Grade Teacher in the fifth respondent / School (aided by the Government) with effect from 03.06.2014, in a sanctioned and regular post, and she was given appointment, in the vacancy caused on account of one Ms.R.Hency Henika, on 02.06.2014. According to this petitioner, ever since the date of her appointment, she was working in the said school continuously, without break, and she is signing in

the Masters' Attendance Register, from 03.06.2014. It is further stated that the Secondary Grade Teacher, Ms.Hency Henika, resigned on 02.06.2014, A.N. and was relieved with effect from 02.06.2014 and therefore, the said post became vacant on 03.06.2014 and hence, a proposal has been moved by the fifth respondent for appointing the petitioner herein in the sanctioned post. It is also stated that this petitioner has passed Teachers Eligibility Test (TET) conducted during August 2013 in Roll No.13TE57101247 and secured 85 marks and was declared successful, by the Teachers Recruitment Board. However, the third respondent, vide proceedings, dated 16.02.2015, has raised certain queries regarding the proposal of appointment of this petitioner and asked for explanation from the fourth respondent as to how the present appointment can be approved, while the earlier appointment for the same post is still subjudice in W.P.No.21078 of 2013, for which, the fifth respondent has replied, vide proceedings, dated 31.03.2015, stating that no case was filed by the previous incumbent Ms.R.Hency Henika and the case filed by one Ms.Nirmala in W.P.No.21078 of 2013, which is pending for adjudication before this Court, has nothing to do with the appointment of this petitioner. Therefore, the petitioner would state that there cannot be any impediment on the part of respondents 1 to 4 to accord approval to this petitioner in respect of the sanctioned post and hence, prays for appropriate orders.

4. The petitioner in W.P.No.26176 of 2015, Ms.J.Uma, would state that she is holding the educational qualification of Diploma in Teacher Education (D.T.Ed.,) and was appointed as Secondary Grade Teacher in the fifth respondent / School, with effect from 01.09.2014, in a sanctioned and regular post, aided by the Government and she was given appointment, in the vacancy caused on account of one Ms.Magimai Shanthi, on 31.08.2014. According to the petitioner, ever since the date of her appointment, she was working in the said school continuously, without break, and she is signing in the Masters' Attendance Register, from 01.09.2014. It is further stated that the Secondary Grade Teacher, Ms.Magimai Shanthi, resigned on 31.08.2014, A.N. and was relieved with effect from 31.08.2014 and therefore, the said post became vacant on 01.09.2014 and hence, a proposal has been moved by the fifth respondent for appointing the petitioner herein in the sanctioned post. It is also stated that the petitioner has passed Teachers Eligibility Test (TET) conducted during August 2013 in Roll No.13TE56108795 and secured 84 marks and was declared successful, by the Teachers Recruitment Board. However, the third respondent has returned the said request on the ground that the writ petition filed by Ms.F.Magimai Shanthi is pending and also called for an explanation, in that regard, from the fourth respondent. It is further stated that, no doubt, Ms.F.Magimai Shanthi has filed W.P.No.21077 of 2013 praying to quash the order passed by the fourth respondent, with a consequential prayer to accord approval for her appointment as Secondary Grade Teacher, in the fifth respondent school. But, subsequently, the said writ petition was dismissed as withdrawn on 24.06.2014 and hence, there

cannot be any impediment on the part of respondents 1 to 4 to accord approval to the petitioner in respect of the sanctioned post and hence, prays for appropriate orders.

5. The learned counsel for the petitioner, in all these writ petitions, would submit that fifth respondent / School is an aided minority school, established and administered by the Catholic Religious Congregation of 'The Roman Catholic Congregation of Daughters of Mary Help of Christians' and is registered as a Society, bearing Registration S.No.23 of 1946-1947 and the said society is administering number of educational institutions for the welfare of the Catholic Christian Minority Community and the said institutions are all Minority Educational Institutions governed under Article 30 (1) of the Constitution of India. The learned counsel would further submit that, while issuing the impugned orders, the incumbent teachers had resigned the job and the writ petitions filed by them have been subsequently withdrawn; further, the petitioners are fully qualified as Secondary Grade Teachers and are eligible to be appointed in the said posts of the fifth respondent / School.

6. This Court heard the submissions of the learned Government Advocate, who accepts notice on behalf of the respondents and who would submit that since W.P.No.21078 of 2013 filed by one Ms.Nirmala is pending for adjudication, before this Court, the third respondent was not in a position to take any decision.

7. This Court has considered the rival submissions made by the learned counsel for both sides and perused the materials available on record.

8. Admittedly, the writ petition filed by Ms.S.Sarala in W.P.No.21079 of 2013 as well as W.P.No.21077 of 2013 filed by Ms.F.Magimai Shanthi were dismissed as withdrawn on 17.06.2014 and 24.06.2014, respectively. Though the third respondent would aver that two other persons, namely, Ms.Nirmala and Ms.R.Hency Henika had filed writ petitions, admittedly, those two cases have nothing to do with the appointment of the petitioners herein.

9. This Court in a catena of decisions, including the judgment reported in (2012) 4 MLJ 198 (S.Rasheetha Banu v. State of Tamil Nadu) has laid down a proposition that if a person is appointed in the sanctioned post, the approval of his/her appointment cannot be rejected.

10. In the case on hand, it is not in dispute that the fifth respondent is an aided minority institution and admittedly, sanctioned posts are lying vacant and the fifth respondent has formally sought for appointment of the petitioners herein, as Secondary Grade Teachers, in the sanctioned posts. It is also not in a serious dispute that the petitioners had passed the Teachers Eligibility Tests. Therefore, this Court is of the considered

opinion that in the light of the factual aspects and the legal position, there cannot be any impediment on the part of the third respondent to accord approval to the petitioners in the sanctioned posts.

11. In the result, the writ petitions are partly-allowed and the matters are remanded back to the third respondent, who shall take into consideration the observations made in these writ petitions and also in the judgment reported in (2012) 4 MLJ 198 (referred to supra) and pass appropriate orders, in accordance with law, within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioners and the fifth respondent. No costs. Consequently, the connected MPs are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Secretary, Government of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai - 9
2. The Director of School Education,
DPI Campus, College Road, Chennai - 600 006
3. The District Educational Officer,
Office of the District Educational Officer,
Gandhi Nagar, 5th Cross Street,
Thiruvannamalai - 606 602
Thiruvannamalai District
4. The Additional Assistant Elementary
Educational Officer, Office of the Assistant
Elementary Educational Officer,
Polur Taluk, Polur - 606 803
Thiruvannamalai District

+4 cc to Dr.FR.A.Xavier Arulraj Advocate sr.44506

+1 cc to the Government Pleader sr.44732

W.P.Nos.26174 to 26176 of 2015

aa16/09/2015