



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2015

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CORAM:

THE HONOURABLE MR. JUSTICE K. RAVICHANDRABABU

W.P. (MD) No. 16841 of 2014

and

M.P. (MD) No. 1 of 2014

The Correspondent
R.C. Middle School
Saveriarpuram
Asirvathapuram via
Tuticorin District - 628 613 ... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai - 600 009.
2. The Director of Elementary Education,
College Road, Chennai - 600 006.
3. The District Elementary Educational Officer,
Tuticorin, Tuticorin District.
4. The Assistant Elementary Educational Officer,
Alwarthirunagri at Thenthiruperai,
Tuticorin District. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relation to the impugned proceedings issued by the District Elementary Educational Officer vide O.Mu.No.2480/A5/2014 dated ..08.2014 (signed on 01.09.2014), quash the same and further direct the respondents to approve the appointment of I.Merlin as B.T.Assistant (Maths) in the petitioner school w.e.f.09.06.2014 and disburse grant-in-aid towards her salary and other attendant benefits.

For Petitioner : Mr.E.V.N.Siva for
Mr.M.J.Shabu Jose

For Respondents : Mr.J.Gunaseelan Muthiah
Govt.Advocate

**ORDER**

The petitioner is aggrieved against the order in rejecting the proposal to approve the appointment of one I.Merlin, as B.T.Assistant (Maths) in the petitioner school w.e.f. 09.06.2014, on the sole ground that there are surplus teachers in the other School run by the same Management.

2. Perusal of the impugned order would show that no other reason is stated except the one as stated supra. Whether such could be the reason for rejecting the proposal has already been considered by this Court in several matters and found that cannot be the reason for rejecting the proposal. One such decision was made in W.P.(MD)No.3540 of 2012, dated 26.02.2014 wherein, the learned Single Judge, after following the earlier order made in W.P.(MD)No.5872 of 2012, dated 13.12.2013 set aside the impugned order therein and directed the respondents to approve the appointment of the teacher therein.

3. Paragraphs 2 and 3 of the order reads as follows:-

"2. The learned counsel appearing for the petitioner submitted that there is no surplus teacher in the petitioner school. The learned counsel has also placed reliance upon an order of this Court, dated 13.12.2013, made in W.P. (MD)No.5372 of 2012, wherein considering the very same issue, this Court was pleased to pass the following orders:-

"2. The case of the petitioner is that he was appointed as Secondary Grade Teacher in the third respondent school on 01.02.2010 in a vacancy caused on account of voluntary retirement of one A.Sarojini. A proposal was submitted by the third respondent management seeking approval of appointment of the petitioner. The first respondent, by the impugned order dated 30.05.2011, declined to approve the appointment of the petitioner on the ground that there are surplus teachers in the other schools run by the same management, and therefore, the appointment of the petitioner cannot be approved. Challenging the said order, the petitioner has come forward with the present writ petition.

3. A similar issue was considered by this Court in W.P.(MD)No.4372 of 2006, dated 01.09.2006, wherein, this court repelled such stand taken by the respondents. The said order was followed in W.P.No.10350 to 10352 of 2006,



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by order dated 08.12.2006. The said order passed in W.P.No.10351 of 2006 was challenged in W.A.292 of 2007 and the same was dismissed by a Division Bench of this Court on 02.08.2007. The orders passed in W.P.Nos.10350 & 10352 of 2006 were also confirmed in W.A.No.194 of 2007 and W.A.No.205 of 2007, dated 09.06.2007. The said Judgments were also implemented. In W.P(MD) No.10256 of 2008, dated 27.03.2013, a similar order of rejection was quashed and the Writ Petition was allowed"

4. Following the said order, this Writ Petition is allowed and the impugned order is set aside. Consequently, the respondents are directed to approve the appointment of the teacher viz., I.Merlin, as B.T.Assistant (Maths) in the petitioner School w.e.f. 09.06.2014 and disburse all monetary benefits, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.
- 2.The Director of Elementary Education,
College Road, Chennai - 600 006.
- 3.The District Elementary Educational Officer,
Tuticorin, Tuticorin District.
- 4.The Assistant Elementary Educational Officer,
Alwarthirunagri at Thenthiruperai,
Tuticorin District.

+1cc to Spl.Government Pleader Sr.No.5700

+1cc to Mr.A.Ajith Geethan, Advocate Sr.No. 5517

mpk

AA/12.02.2015/3p- 7c/

W.P. (MD) No.16841 of 2014

05.02.2015