



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.09.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) Nos.17176 and 17162 of 2015

M.P. (MD) Nos. 1 and 1 of 2015

and M.P. (MD) No.2 of 2015

In W.P.No.17176 of 2015:

R.JACINTHA

... PETITIONER

Vs.

1 THE DIRECTOR OF ELEMENTARY EDUCATION
DPI CAMPUS, COLLEGE ROAD,
CHENNAI- 600 006.

2 THE DISTRICT ELEMENTARY
EDUCATIONAL OFFICER
THANJAVUR DISTRICT, THANJAVUR.

3 THE ASSISTANT ELEMENTARY
EDUCATIONAL OFFICER,
THANJAVUR DISTRICT, THANJAVUR.

4 THE CORRESPONDENT,
TELC MIDDLE SCHOOL,
MANAMBUCHAVADY, THANJAVUR-613 001.

... RESPONDENTS

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of 2nd respondent in O.Mu.No.00432/A4/2015 dated 23/02/2015 and to quash the same and consequently direct the Respondents 1 to 3 to approve the promotion of the petitioner to the post of B.T. Assistant (Tamil) from 02/06/2014 onwards as per the ratio laid down by this Honourable Court in the orders passed in Director of Elementary Education Chennai - 600 006 Vs. Vigila Case reported in 2006(5) CTC 385 with all consequential and other attendant benefits including arrears of salary along with interest.

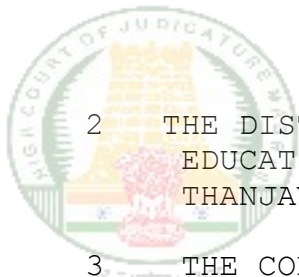
In W.P.No.17162 of 2015:

T. CAROLINE SARA

... PETITIONER

Vs.

1 THE DIRECTOR OF ELEMENTARY
EDUCATION,
DPI CAMPUS, COLLEGE ROAD,
CHENNAI -600 006.



2 THE DISTRICT ELEMENTARY
EDUCATIONAL OFFICER,
THANJAVUR DISTRICT, THANJAVUR.

3. THE CORRESPONDENT,
TELC MIDDLE SCHOOL,
MANAMBUCHAVADY, THANJAVUR 1.

... RESPONDENTS

PRAYER: Petition filed under Article 226 of the Constitution of India praying for the issuance of a WRIT OF MANDAMUS directing the 1st Respondent to consider the representation submitted by the petitioner dated 06.04.2015 for approval of transfer of the Petitioner to the post of Secondary Grade Assistant in the 3rd Respondent school with effect from 12.06.2014 as per the ratio laid down by this Honble Court in the orders passed in Director of Elementary Education Chennai 6 Vs. S.Vigila reported in 2006(5) CTC 385 with reference to promotion of incumbent as BT Assistant with all consequential and other attendant benefits including arrears of salary along with interest.

For Petitioner ... Mr.G.Sankaran

For Respondents ... Mr.Aayiram K.Selvakumar
1 to 3 in Government Advocate
WP (MD) No.17176/2015
R1&R2 in WP (MD) No.17162/2015

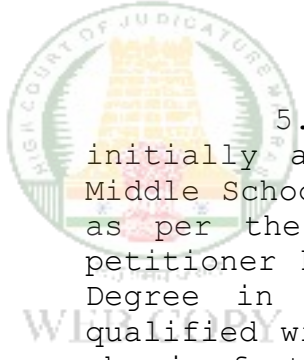
C O M M O N O R D E R

The Writ Petition in W.P.No.17162 of 2015 has been filed by T.Caroline Sara, who is working as the Secondary Grade Assistant Teacher in the third respondent school coming under the Corporate Management of TELC, seeking a writ of mandamus directing the first respondent to consider the representation dated 06.04.2015 for approval of her transfer to the post of Secondary Grade Teacher dated 12.06.2014 as per the ratio laid down by this Court in the judgment reported in 2006(5) CTC 385 (Director of Elementary Education, Chennai Vs. S.Vigila).

2. R.Jacintha, who is appointed as the Secondary Grade Assistant Teacher in TELC Middle School at Thanjavur on 06.03.1996 and promoted as B.T. Assistant in Tamil with effect from 02.06.2014 having suffered the order dated 23.02.2015 refusing to approve her appointment by the respondent Department has come to this Court seeking writ of certiorarified mandamus to call for the impugned order dated 23.02.2015 passed by the first respondent in O.Mu.NO.00432/A4/15 to quash the same and for consequential promotion made as B.T. Assistant(Tamil) from 02.06.2014 onwards as per the ratio laid down by this Court in the judgment reported in 2006(5) CTC 385 (Director of Elementary Education, Chennai Vs. S.Vigila).

3.By consent, the Writ Petitions are taken up for final disposal at the stage of admission itself.

4. Heard the parties and perused the materials available on
<https://hcservices.ecourts.gov.in/hcservices/record>.



5. The petitioner in W.P.No.17176 of 2015 namely, Jacintha was initially appointed as the Secondary Grade Assistant Teacher in TELC Middle School on 06.03.1996. The same was also approved by the Department as per the order passed by the second respondent on 30.10.1996. The petitioner having qualified with B.Lit(Tamil) in 2002 also acquired M.A. Degree in Tamil in the year 2005 and in addition thereto she has qualified with B.Ed in the year 2009 and therefore she made a claim that she is further eligible for the promotion to the post of B.T. Assistant (Tamil).

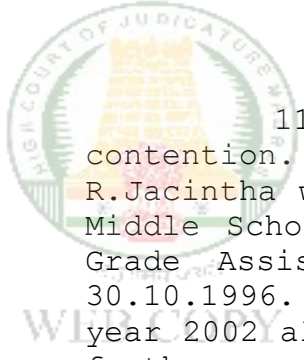
6. While so, the vacancy for the post of B.T.Assistant Tamil arose due to the retirement of one incumbent on 01.06.2014. As the petitioner was qualified, she was given promotion as Tamil Pandit as per the Chairman, Elementary Education, TELC Board on 21.05.2014 with effect from 02.06.2014. The petitioner also was joined duty on 02.06.2014 in the promotion post. After granting promotion to the petitioner, the fourth respondent school forwarded the proposal to the second respondent through the third respondent on 19.09.2014. Citing that the four posts of B.T. Assistant including Tamil Pandit are surplus for the year 2012-13 and 2013-14, the second respondent refused to approve the promotion of the petitioner R.Jacintha.

7. Challenging the same, it has been contended by the learned counsel for the petitioner that as per the issue with regard to determination of surplus teachers has been settled and clarified by this Court in the judgement reported in Director, the Elementary Education, Chennai and others Vs. S.Vigila in 2006(5) CTC 385. In the said judgment this Court has rightly interpreted G.O.Ms.No.525 (School Education) Department dated 29.12.1997, making it clear among other things, the minimum strength of teachers required obviously should not fall below the number of Standards/Section in a school. In other words, if there are five standards, obviously the minimum number of teachers should be five, out of which one would be the Headmaster.

8. Therefore, if the respondent before passing impugned order has to considered the ratio laid down by this Court in paragraph No.23 (1) and (2) . Admittedly, 3 B.T. Assistant Teachers are required for the standards 6 to 8 in the fourth respondent school. Probably, the impugned order would have been in favour of the teachers. Now, the respondent has failed to consider the representation and also G.O.Ms. No.525 dated 29.12.1997.

9. Adding further, the learned counsel for the petitioner sought for setting aside the impugned order. In the light of G.O.Ms. No. 525 date 29.12.1997 as interpreted by this Court in the aforesaid judgment. If such exercise is done by giving approval to the promotion in favour of R.Jacintha. then the case of the petitioner in W.P.No.17162 of 2015 namely, T.Caroline Sara would be automatically considered, pleaded finally.

10. The learned Government Advocate appearing for the respondents would submit that since the order has already been passed considering the pleas raised by the petitioner, it will be a mere exercise if any such direction is given.



11. But this Court is not able to find any merit in the said contention. Admittedly, the petitioner in W.P.No.17176 of 2015 namely, R.Jacintha was appointed as the Secondary Grade Assistant Teacher in TELC Middle School, Thanjavur on 06.03.1996 and her appointment as Secondary Grade Assistant Teacher was approved by the second respondent on 30.10.1996. Thereafter, the petitioner qualified with B.Lit(Tamil) in the year 2002 also acquired M.A. Degree in Tamil in the year 2005 and she has further qualified with B.Ed in the year 2009. The said qualification is the requisite qualification for promotion to the post of B.T. Assistant Tamil by the fourth respondent school. Therefore, she has given promotion to the post of B.T. Assistant by the fourth respondent school and thereafter, the same was also forwarded to the second respondent through the third respondent on 19.09.2014. It is not in dispute that since the fourth respondent school is having standards 6 to 8, 3 P.G. Assistants are required as per G.O Ms.No.525 dated 29.12.1997.

12. This apart, the petitioner was also working as 3rd B.T. Assistant at the time of giving promotion by the fourth respondent school. Therefore, the impugned order refusing to consider the proposal has to be re-considered afresh on the basis of G.O.Ms.524 dated 29.12.1997 as interpreted by this Court in the above mentioned judgment. Accordingly, the impugned orders are set aside and the respondents are directed to complete the said exercise within a period of eight weeks from the date of receipt of copy of this order.

13. With the above directions, both the writ petitions are disposed of. No costs. Consequently, connected M.P.s are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

- 1 THE DIRECTOR OF ELEMENTARY EDUCATION,
DPI CAMPUS, COLLEGE ROAD, CHENNAI- 600 006.
- 2 THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
THANJAVUR DISTRICT, THANJAVUR.
- 3 THE ASSISTANT ELEMENTARY
EDUCATIONAL OFFICER, THANJAVUR DISTRICT, THANJAVUR.
- 4 THE CORRESPONDENT,
TELC MIDDLE SCHOOL, MANAMBUCHAVADY, THANJAVUR-613 001.

+2ccs to Mr.F.Deepak, Advocate SR.No.56431 & 56432

+1cc to The Special Government Pleader, Madurai. SR.No.56141

W.P.(MD)Nos.17176 and 17162 of 2015

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and M.P.(MD)No.2 of 2015

22.09.2015