

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.42997/2016

N.Vennila

.. Petitioner

Vs

- 1.The Secretary to Government
School Education Department,
Fort St George, Chennai 600 009.
- 2.The Director of School Education,
College Road, Nungambakkam,
Chennai-6.
- 3.The District Elementary Educational Officer
Nagapattinam, Nagapattinam District.
- 4.The Additional Assistant Elementary
Educational Officer, Vedaranyam,
Vedaranyam Taluk, Nagapattinam District.
- 5.The Secretary and Correspondent
Mahatma Gandhi Aided Middle School
Ayakkaranpulam-II, Vedaranyam
Taluk, Nagapattinam District.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of mandamus directing the 3rd respondent to approve the appointment of the petitioner as a Secondary Grade Teacher in the 5th respondent School, from the date of appointment i.e., from 28.04.2015 along with all attendant and monetary benefits.

For Petitioner : Mr.V.Kasinatha Bharathi

For RR 1 to 4 : Mr.V.Anandamoorthy, AGP

ORDER

By consent, the writ petition is taken up for final disposal. Mr.V.Anandamoorthy, learned Additional Government Pleader accepts notice on behalf of the respondents 1 to 4.

2.The petitioner would submit that she was appointed as a Secondary Grade Teacher in the 5th respondent / Aided School on 28.04.2015 and she was selected and appointed after undergoing selection process. The 5th respondent / School has sent a communication dated 30.04.2015 to the concerned authority through proper channel, for seeking approval of the petitioner's appointment on the ground that one Tmt.Kalyani, retired from service due to superannuation on 13.05.2010 and another Secondary Grade Teacher, viz., A.S.Gandhi, died due to illness and as such, prays for approval. The petitioner would further state that as per the Staff Fixation Order of the 3rd respondent dated 18.05.2014, the required sanction post of two is kept vacant in the 5th respondent / School and in respect of the next Academic Year 2015-2016, the sanctioned post is two as per the endorsement of the 3rd respondent dated 22.01.2016 and it was fixed on the basis of the report of the 4th respondent and as such, there cannot be any impediment to approve the appointment of the petitioner and since it has not been done, the petitioner came forward to file the present writ petition.

3.The learned counsel for the petitioner has drawn the attention of this Court to the recommendation of the 4th respondent made to the 3rd respondent and would submit that in the light of the positive recommendation, there may not be any impediment on the part of the 3rd respondent to approve the petitioner's appointment on 28.04.2015. Learned counsel further invited the attention of this Court to the order dated 25.07.2011 made in WP [MD] No.3772/2008 [*S.Christy Vs. The Chief Education Officer, Kanyakumari District at Nagercoil, Kanyakumari District - 629 001 and others*] and to yet another order dated 17.09.2012 made in WP [MD] No.12251/2012 [*Parvathi Sankar Primary School rep. by its Secretary P.Muthusamy Vs. The District Elementary Educational Officer, Tirunelveli*] and would submit that in the light of the settled position of law, once the post is sanctioned and is lying vacant, no prior permission of the respondents is necessary to appoint teachers and prays for appropriate orders.

4.Heard the submissions of Mr.V.Anandamoorthy, learned Additional Government Pleader appearing for the respondents 1 to 4.

5.Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the same, directs the 3rd respondent to act on the recommendation of the 4th respondent dated 15.12.2015 in Na.Ka.No.807/Aa1/2015 as well as the letter

of the Joint Director of the Elementary Education [Aided], Chennai-600 006 in O.Mu.No.24205/G2/2016 dated 26.10.2016 and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the 5th respondent / School.

5.The writ petition stands disposed of with the above direction. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

AP

To

- 1.The Secretary to Government
School Education Department,
Fort St George, Chennai 600 009.
- 2.The Director of School Education,
College Road, Nungambakkam,
Chennai-6.
- 3.The District Elementary Educational Officer
Nagapattinam, Nagapattinam District.
- 4.The Additional Assistant Elementary
Educational Officer, Vedaranyam,
Vedaranyam Taluk, Nagapattinam District.

+1 CC to Government Pleader Sr.No.72710

+1 CC to Mr.V.Kasinatha Bharathi, Advocate Sr.No.72521.

W.P.No.42997/2016

SU(CO)
KP(05.01.2017)