



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.02.2016

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD).No.10754 of 2015

and

M.P.(MD)No.1 of 2015

R.Koilmani Jasinth

.. Petitioner

Vs.

1.The State of Tamilnadu

Rep. by its Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.

2.The Director of Elementary School Education,
College Road, Chennai - 600 006.

3.The District Elementary Educational Officer,
Tuticorin, Tuticorin District.

4.The Additional Assistant Elementary
Educational Officer, Udangudi, Tuticorin District.

5.The Correspondent,
TNDTA Middle School,
Seerkatchi, Tiruchendur Taluk,
Tuticorin District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the third respondent District Elementary Educational Officer vide O.Mu.No.1348/Aa2/2014, dated 22.05.2014 and quash the same and further direct the third respondent District Elementary Educational Officer to approve the appointment of the petitioner as Pre-Vocational Instructor (Sewing) and disburse salary and other attendant benefits w.e.f. 19.06.2012.

For Petitioner : Mr.EVN.Siva for
Mr.A.Ajith Geethan

For Respondents : Mr.T.S.Mohamed Mohideen
Additional Government Pleader for RR1 to RR4

ORDER

In this writ petition, the petitioner challenges the order of the third respondent, dated 22.05.2014, dismissing to grant approval of the petitioner for the post of Sewing Mistress.



3. The case of the petitioner is that she is now working as Sewing Mistress in the fifth respondent School and she is possessing Industrial Certificate in Needle work, Dress Making and Embroidery. The fifth respondent School is an Aided Private School and she joined service on 19.06.2012, against the permanent and sanctioned post caused by the retirement of one Tmt.A.Kamla Jothi Pushparani. After the appointment, the fifth respondent school sent a proposal to the fourth respondent, who in turn forwarded the said proposal to the third respondent for approval. The third respondent without approving the same, returned the proposal vide proceedings in O.Mu.No.3833/Aa2/2012, dated 31.01.2013 stating that the student strength in the school is not in conformity, as per G.O.Ms.No.231, dated 11.08.2010. However, as per Staff Fixation for the year 2012-2013, the Sewing Mistress post was shown as needy place. Hence, once again, the fifth respondent school re-submitted the said proposal to the third respondent seeking approval, on 29.04.2014. The same was also rejected by the third respondent by the impugned order dated 22.05.2014, reiterating the same reason. This order is challenged in this writ petition.

4. The learned counsel for the petitioner submitted that in similar cases, this Court directed the authorities to approve the appointment of Craft teacher following G.O.Ms.No.168, School Education (B2) Department, dated 13.09.2006 in the order in W.P.(MD)No.10155 of 2007, dated 26.02.2008 in **J.THANUJA V. RAYEE vs. THE DISTRICT ELEMENTARY EDUCATIONAL OFFICERS AND OTHERS, TUTICORIN DISTRICT**. He relied on the Judgment in W.P.(MD)No.3435 of 2008, dated 11.04.2008 (**P.JEYASEELI PACKIYARANI vs. THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER AND OTHERS, TUTICORIN DISTRICT**) and W.P.(MD)No.7218 of 2008, dated 04.08.2009 (**P.JAYASINGH PERINBARAJ vs. THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER AND OTHERS, TUTICORIN DISTRICT**). He also relied on the Judgment in W.P.(MD)No.9137 of 2008, dated 20.08.2010 (**N.REGI MALLIKA vs. THE DIRECTOR OF ELEMENTARY EDUCATION, COLLEGE ROAD, CHENNAI AND OTHERS**).

5. The learned counsel for the petitioner submitted that the Government had provided relaxation to 11 sewing mistress approval in 10 middle schools vide G.O.Ms.No.168, School Education (B2) Department, dated 13.09.2006, where the students strength is very less. But the third respondent repeatedly citing the students strength, returned the proposal sent by the fifth respondent school, without advertng to the said Government Order and the Orders of this Court.

6. The third respondent filed the counter, wherein it has been stated that for appointment of Pre-Vocational Instructor in the middle school, there should be at least five sections in Standard VI to VIII having work load not less than 18 periods as mentioned in G.O.Ms.No.168, School Education (B2) Department, dated 13.09.2006 and in the fifth respondent school, the strength of students in standards VI to VIII is very less and hence, the request of the petitioner was not considered.

7. From the Judgment rendered in W.P.(MD)No.10155 of 2007, dated 26.02.2008 referred to above, it is seen that the learned Judge has considered G.O.Ms.No.168, School Education (B2) Department, dated 13.09.2006 and observed as follows:-

<https://hcservices.ecourts.gov.in/hcservices> A close reading of the Government Order would go to show that the Government had decided to accept the proposal of the Director of Elementary Education to ratify the action



of the District Educational Officer, Tuticorin in having assessed teaching grants in respect of eleven full time pre-vocational Instructors appointed in 10 Middle Schools after 1973-74 without considering the work load prescribed by Government since there were only 3 to 4 Sections in Standards VI to VIII and for the amount of Rs.10.76 lakhs paid towards grant in respect of 11 full time pre-vocational instructors and issue orders covering all similar cases as a special case for enabling to furnish a report to public Accounts Committee to overcome the audit objection and issue orders accordingly."

8. In a similar matter in W.A.(MD)No.703 of 2009, dated 01.02.2011, the Division Bench of this Court, in paragraph No.7 has held as follows:-

"7.Though the Writ Petition has been disposed of in the year 2008, no materials have been placed before this Court as to whether any appeal has been filed. The impugned order in W.P.(MD)No.4942 of 2011, dated 30.04.2014, makes it abundantly clear that the sanctioned post in St.Antony's High School, was not declared as surplus nor resumed. Periodical fixation of staff strength, included the post, in which the first respondent has been appointed. The Writ Court has considered as Hon'ble Division Bench Judgment in W.A.(MD)No.703 of 2009 which is squarely applicable to the facts of this case. As rightly held when appointment is made against a sanctioned post, payment of salary has to follow. On the facts and circumstances, we do not find any ground to interfere. While confirming the order made in W.P.(MD) No.4942 of 2011, dated 30.04.2014, Mr.VR.Shanmuganathan, learned Special Government Pleader sought for a direction to the appellant to restrict the pay from today, taking note of the staff strength. Such direction cannot be granted. Once appointment has been made against a sanctioned post, which is not declared as surplus and resumed, the teacher is entitled to all benefits, which flow from such appointment."

9.Considering the fact that the issue raised in the present writ petition is covered by the above said Orders of this Court, the impugned order of the third respondent, dated 22.05.2014, is liable to be quashed and accordingly quashed and the Writ petition stands allowed. The respondents 3 and 4 are directed to approve the proposals submitted by the fifth respondent school, appointing the petitioner as Sewing Mistress and disburse salary and other attendant benefits with effect from 19.06.2012 in the fifth respondent school, and pass appropriate orders, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(P&A)

/True copy/



To

1.Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.

2.The Director of Elementary School Education,
College Road, Chennai - 600 006.

3.The District Elementary Educational Officer,
Tuticorin, Tuticorin District.

4.The Additional Assistant Elementary
Educational Officer, Udangudi,
Tuticorin District.

5.The Correspondent,
TNDTA Middle School,
Seerkatchi, Tiruchendur Taluk,
Tuticorin District.

+1cc to M/s.A.Ajith Geethan, Advocate SR.NO.10921
+1cc to special Government Pleader SR.No.11281

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W.P (MD) .No.10754 of 2015
25.02.2016