

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 02.09.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO**AND****THE HONOURABLE MR.JUSTICE S.S.SUNDAR****W.A.(MD)No.1240 of 2016****and****C.M.P(MD)No.8368 of 2016**1.The Director of School Education,
Chennai - 6.2.The Chief Educational Officer,
Tuticorin.3.The District Educational Officer,
Tuticorin.... Appellants/
Respondents 1 to 3

Vs.

1.P.Jeyalakshmi

... 1st Respondent/
Writ Petitioner2.The Correspondent,
St.Lusia High School,
Kurumbur,
Tuticorin District.... 2nd Respondent/
4th Respondent

PRAYER: Appeal filed under Clause 15 of the Letters Patent against the order of this Court dated 24.06.2016 passed in W.P(MD)No.988 of 2013.

WP (MD) No. 988/2013 :

Writ Petition filed Under Article 226 Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents to approve the petitioner appointment as a B.T.Assistant from the date of appointment i.e.on 09.09.2009 and confer all the consequential benefits.

For Appellants : Mr.VR.Shanmuganathan
Special Government Pleader

For Respondents : Mr.C.Vakeeswaran for R1

JUDGMENT

(Judgment of the Court was delivered by
NOOTY.RAMAMOHANA RAO,J.)

This writ appeal is preferred by the Director of School Education, Chennai; the Chief Educational Officer, Tuticorin and the District Educational Officer, Tuticorin, who are the respondents 1, 2 and 3 in the writ petition in W.P(MD)No.988 of 2013.

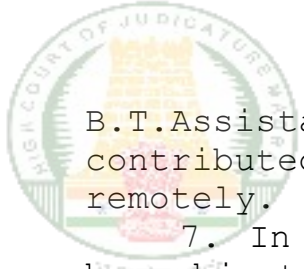
2. The first respondent/writ petitioner - Teacher instituted the said writ petition seeking a direction to the respondents to approve her appointment as a B.T.Assistant from the date of her appointment, namely, 09.09.2009 with all consequential benefits.

3. The case has arisen all because of two errors committed, not by the writ petitioner, but by the appellants on one hand and the school management on the other. By proceedings dated 05.01.2001, of the Director of School Education, Chennai, the first appellant herein, one post of Secondary Grade Teacher was sanctioned to St.Lucas Higher School, Kurumbur, Tuticorin District. Based on that communication, the post of Secondary Grade Teacher was sanctioned to St.Lucas Higher School, Kurumbur, Tuticorin District, instead of mentioning the name of the school as St.Lusia High School, Kurumbur, Tuticorin District. In fact, there is no school at Kurumbur Town by name St.Lucas High School. It took so long for the management of St.Lusia High School per se to get rectification of the mistake in recording it's name. However, the management of the school has also made a mistake in selecting and appointing the writ petitioner straightaway as B.T.Assistant. Whereas the post sanctioned is only that of a Secondary Grade Teacher. The writ petitioner was appointed through proceedings dated 08.09.2009 of the school management and the writ petitioner started functioning. When the proposal for approval was submitted, the trouble started. For no fault of the writ petitioner, she has been put to inconvenience and hardship on one count or the other without approving her appointment so far. That is why, the writ petition came to be instituted.

4. The learned Single Judge, by the judgment rendered on 24.06.2016, took into consideration the averments contained in the counter affidavit filed by the third respondent/third appellant herein and noted that one post of B.T.Assistant in St.Lusia High School, Kurumbur, has become surplus and hence, directed the appellants herein to approve the appointment of the writ petitioner for the post of B.T.Assistant and then, issue any order of transfer transferring her services to any other needy school. It is, this order, which is under challenge in the present appeal.

5. It is not in dispute that one post of a Teacher is required to be sanctioned to St.Lusia High School, Kurumbur, but the initial mistake was committed in reading the name of the school properly. Instead of printing the correct name of the school, St.Lucas High School is the name that is printed therein in the order dated 05.01.2001. One can understand if there is any other school by name St.Lucas High School at Kurumbur, but there is no such school at Kurumbur and hence, the question of sanctioning the post of Secondary Grade Teacher to a non-existing school would not have arisen at all.

6. It is, thus, obvious and clear that the post of Secondary Grade Teacher sanctioned on 05.01.2001 is only to St.Lusia High School, Kurumbur. Instead of making selection and appointment to select a suitable candidate for the post of Secondary Grade Teacher, the school committee recruited the writ petitioner as



B.T.Assistant. To these errors, the writ petitioner has not contributed anything in any manner either directly or even remotely.

7. In these set of circumstances, the writ petitioner cannot be subjected to any hardship or inconvenience. Equities are loaded in her favour and hence, the learned Single Judge has correctly directed the appellants to consider and approve her appointment and in case of necessity, transfer her later on to any other needy school.

8. We also notice that the State Government has, as a measure of policy, announced through G.O.Ms.No.79, School Education (U1) Department, dated 14.06.2002, that whenever the post of Secondary Grade Teacher falls vacant, it shall be filled up with a B.T.Assistant. Now that, one post of B.T.Assistant has become surplus in this school. It is only apt to note that the directions issued by the learned Single Judge are not only based on equity, but they are based on a realistic understanding of the legal regime prevailing insofar as the recruitment of Teachers are concerned.

9. We find no error committed in the order of the learned Single Judge and hence, we dismiss this writ appeal. We trust that the appellants will take all necessary action within next thirty days. No costs. Consequently, the connected civil miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1.The Director of School Education,
Chennai - 6.

2.The Chief Educational Officer,
Tuticorin.

3.The District Educational Officer,
Tuticorin.

+1cc to Mr.C.Vakeeswaran, Advocate in SR.No. 49910

+1cc to the Special Govt.Pleader in SR.NO. 50157

rsb

JA-SS3-09.09.2016-3P:6C

W.A. (MD) No.1240 of 2016
and

C.M.P (MD) No.8368 of 2016
02.09.2016