



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.A. (MD) Nos. 653 to 655 of 2016
and
CMP (MD) Nos. 4272 to 4276 of 2016

1. The Government of TamilNadu,
Rep. by its Secretary,
Department of School Education,
Secretariat, Chennai.
2. The Director of School Education,
O/o. The Directorate of School Education,
DPI Compound, College Road,
Chennai - 6.
3. The District Educational Officer,
O/o. The District Educational Office,
Ramanathapuram,
Ramanathapuram District.

.. Appellants in all the Writ Appeals

Vs.

- | | |
|----------------------|--|
| P.Manikandan | .. 1 st respondent in W.A. (MD) No. 653 of 2016 |
| A.M. Shiek Asath Ali | .. 1 st respondent in W.A. (MD) No. 654 of 2016 |
| M.Nagoorgani | .. 1 st respondent in W.A. (MD) No. 655 of 2016 |

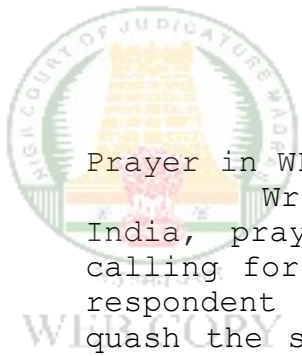
2. The Correspondent,
Syed Ammal Higher Secondary School,
Ramanathapuram,
Ramanathapuram District.

.. 2nd respondent in all the Writ Appeals

COMMON PRAYER: Writ Appeals are filed under Clause XV of Letters of Patent, against the common order, dated 08.12.2015 made in M.P. (MD) Nos. 2, 2 and 2 of 2015 in W.P. (MD) No. 17583 to 17585 of 2015.

Prayer in MP (MD). 2/ 2015 in WP (MD). 17583/2015 :

To grant an Ad-Interim Direction directing the 3rd respondent to grant temporary approval of the appointment of the petitioner as B.T. Assistant (English) w.e.f 22.09.2014 pending disposal of the above Writ Petition.



Prayer in WP(MD). 17583/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings in O.Mu.613/A2/2015 dated 14.09.2015 and quash the same as illegal and consequently to direct the 3rd respondent to approve the appointment of the petitioner as B.T. Assistant (English) w.e.f 22.09.2014 with all other attendant benefits within the period that may be stipulated by this Honourable Court.

Prayer in MP(MD). 2/ 2015 in WP(MD).17584/2015 :

To grant an Ad Interim Direction directing 3rd respondent to grant temporary approval of the appointment of the petitioner as B.T. Assistant (English) w.e.f. 22.09.2014 pending disposal of the above WP and thus render justice.

Prayer in WP(MD). 17584/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings in O.MU.No. 614/A2/2015 dated 14.09.2015 and quash the same as illegal and consequentially to direct the 3rd respondent to approve the appointment of the petitioner as B.T. Assistant (English) w.e.f. 22.09.2014 with all other attendant benefits within the period that may be stipulated by this Honble Court.

Prayer in MP(MD). 2/ 2015 in WP(MD).17585/2015 :

To grant an Ad Interim Direction directing the 3rd respondent to grant temporary approval of the appointment of the petitioner as B.T Assistant (Tamil) w.e.f. 02.09.2014 pending disposal of the above WP and thus render justice.

Prayer in WP(MD). 17585/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 3rd respondent in his proceedings in ATHI.MU.No. 921/A2/2015 dated 14.09.2015 and quash the same as illegal and consequentially to direct the 3rd respondent to approve the appointment of the petitioner as B.T. Assistant (Tamil) w.e.f. 2.09.2014 with all other attendant benefits within the period that may be stipulated by this Honble Court.

For Appellants in
all the W.As. : Mr.VR.Shanmuganathan
Special Government Pleader

For R1 in all the
W.As. : Mr.M.Ajmalkhan
Senior Counsel
for
M/s.Ajmal Associates

COMMON JUDGMENT

(Judgment of this Court was delivered by S.MANIKUMAR, J.)

In the present writ appeals, the challenge made is to the common order passed by the writ Court, directing the appellants to grant temporary approval for appointment of the first respondents as B.T.Assistant (English) and B.T.Assistant (Tamil) in the second respondent school, respectively, and to pay salary to them from the date of their appointment, till the date of disposal of the writ petition.

2.Learned counsel appearing for the parties in the appeals, have consented that, they are agreeable that the order passed in W.A.(MD) No.220/2016 dated 05.02.2016, be passed in the present appeals also, details of which are given below. Thus, by consent, the present appeals are taken up and disposed of.

3.On an earlier occasion, a similar Writ Appeal (MD) No.220 of 2016, filed by the State, has been considered and disposed of on 05.02.2016 by a Hon'ble Division Bench of this Court, to which, one of us (SMKJ) is a party.

4.Mr.M.Ajmal Khan, learned senior counsel appearing for the first respondents/petitioners has consented for a similar order to be passed.

5.Inasmuch as the learned counsel for the first respondents/writ petitioners has consented for a similar order as made in W.A.(MD) No.220 of 2016, dated 05.02.2016, this Court deem it fit to extract the same and dispose of the Writ Appeals on the same lines:

"4.In a similar writ appeal filed by the State in the Principal Bench, a Division Bench of this Court has passed the following order in W.A.No.1299 of 2015, dated 14.09.2015.

'4.Be that as it may, the issue as to whether the provisions of the Act, will be applicable to a minority institution, is pending consideration in Aswinithanappan Vs. Director of Education and another - (2014) 8 SCC 272.

5.In view of the above, without going into the merits of the case as to whether a teacher appointed in a minority school is required to have TET qualification, as the same is the subject matter of the Writ petition, we are of the considered view that interest justice would sub-serve, if the appointment of the first respondent is protected, without giving any direction to the State Government to grant temporary approval.

6.Mr.D.Krishnakumar, learned Special Government Pleader (Education) appearing for the appellants fairly submits that the first respondent shall not be terminated during the pendency of the said writ petition being W.P.No.14072 of 2015.

7.Accordingly, we direct that the first respondent shall be given her salary in the course of her employment and no steps to remove her from service shall be taken till the disposal of the writ petition. However, it is made clear that this order is



subject to the final outcome of the pending writ petition. It is further made clear that the first respondent shall not claim any equity on account of this order, without prejudice to the rights and contentions of the parties, therein.

8.This intra-Court appeal is disposed of accordingly. No costs. Connected Miscellaneous Petition is closed. "

6.By consent, Writ Appeals are disposed of on the same lines as ordered in W.A.(MD) No.220 of 2016 dated 05.02.2016. Having consented, appellants are directed to comply with the orders. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar.

To

1.The Secretary, Department of School Education,
Secretariat, Chennai.

2.The Director of School Education,
O/o.The Directorate of School Education,
DPI Compound, College Road, Chennai - 6.

3.The District Educational Officer,
O/o.The District Educational Office,
Ramanathapuram, Ramanathapuram District.

+2CC to M/S.Ajmal Associates, Advocate, SR.No. 22237, 22238

W.A. (MD) Nos.653 to 655 of 2016
20.04.2016

AM/MP/SAR-II/01.06.2016/4P/6C