



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 28.11.2016

C O R A M

WEB COPY

THE HONOURABLE DR.JUSTICE **S.VIMALA**

Writ Petition (MD) No.19769 of 2016

and

W.M.P (MD) No.14253 & 14254 of 2016

The Correspondent,
St.Mary's Middle School,
Orikottai - 630 303,
Ramanathapuram District.

.. Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by its secretary
Department of School Education
Fort St.George, Chennai - 600 009.

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

3.The Chief Educational Officer
Ramanathapuram,
Ramanathapuram District.

4.The District Elementary Educational Officer
Ramanathapuram, Ramanathapuram District.

5.The Additional Assistant Elementary
Educational Officer, Thiruvadanai
Ramanathapuram District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 4th respondent / District Elementary Educational Officer in Na.Ka.No.5196/a3/2015 dated 08.07.2016 (in so far reasons 2 and 3 are concerned) and the consequential proceedings issued by the 5th respondent / Additional Assistant Elementary Educational Officer in A.Thi.Mu.No.684/A2/2015 dated 01.08.2016 quash the same and further direct the 4th respondent District Elementary Educational Officer to proceed forthwith the appointment of A.Alexander as BT Assistant in Maths in the petitioner school w.e.f the date of his appointment on 23.01.2013 with all attendant benefits including



the arrears of salary and allowance.

For Petitioner

... Mr. Issac Mohanlal, Senior Counsel
for, Ms. Amala

For Respondents

... Mr. V. R. Shanmuganathan
Additional Government Pleader

O R D E R

Contending that, (a) G.O.Ms.No.144, dated 04.07.2008, cannot be the basis to deny approval to the incumbent-A.Alexander; (b) G.O.Ms.No.144, dated 04.07.2008, has been issued by the Government, by way of administrative instructions; (c) the appointment of A.Alexander as B.T.Assistant in Mathematics, in the petitioner school with effect from 23.01.2013 is well within the sanctioned strength of six teachers; (d) when the B.T.Assistant Science was promoted as Headmaster, who was competent to teach Science and when the requirement of the students was that of a B.T.Assistant Mathematics and not B.T.Assistant Science Teacher, it is not open to the respondents to compel the minority school to recruit only a B.T.Assistant Science; (e) the minority school has every right to appoint the teachers once the strength of the school is fixed; (f) no permission is required for conversion, this writ petition has been filed.

1.1. The specific contention of the petitioner is that application of G.O.Ms.No.144, dated 04.07.2008, in clauses (2) and (3) of the proceedings dated 08.07.2016, inter-alia holding that the sanction granted for appointment of a Teacher in a particular subject (science) cannot be changed to another subject (Mathematics), in future, and the consequential order of the fifth respondent, dated 01.08.2016, by which, the approval for appointment has been returned / rejected is under challenge.

2. Heard the learned Senior Counsel for the petitioner and the learned Additional Government Pleader for the respondents.

3. It is the case of the petitioner that one A.Alexander was appointed as BT Assistant (Maths) in the promotional vacancy of the then incumbent R.M.Antony as Headmaster on 21.01.2013. The petitioner school submitted a proposal to the fourth respondent to convert the post of B.T.Assistant Science into BT Assistant Mathematics, despite the fact that permission from the respondents is not necessary in so far as Minority Educational Institution is concerned.

3.1. Thereafter, the fifth respondent/Additional Assistant District Elementary Educational Officer, returned the proposal to the petitioner school to produce the pass Certificate in Teachers Eligibility Test. However, neither the third respondent

nor the fourth respondent had any say about the conversion of B.T.Assistant science into B.T.Assistant Mathematics.

3.2. Thereafter, the petitioner school challenged the proceedings of the fifth respondent AAEEEO directing the school to produce the TET Certificate of incumbent in W.P.(MD)No.642 of 2013. This Court by order dated 29.04.2013, directed the respondents therein to give temporary approval to the teachers concerned and to pass orders granting necessary aid by way of salary to those teachers as temporary measure pursuant to the temporary approval granted in these orders and further directed that the teachers to pass TET before 31.03.2015.

3.3. After several returns and compliances, the fifth respondent forwarded the proposal to the fourth respondent, seeking approval of appointment. The fourth respondent by the impugned order dated 08.07.2016, once-again returned the proposal, relying upon G.O.Ms.No.144, stating that, once the post is sanctioned for a particular subject, under no circumstances, it can be changed in future (for a different subject). Thereafter, the fifth respondent, by his order dated 01.08.2016, had rejected the approval of appointment stating that the sanctioned post is only for BT Assistant Science and not for BT Assistant Maths.

4.The learned Additional Government Pleader fairly conceded to the fact that the said Government Order cannot be applied to the facts of the present case.

5. Accordingly, the impugned proceedings issued by the 4th respondent / District Elementary Educational Officer in Na.Ka.No.5196/a3/2015 dated 08.07.2016 (in so far reasons 2 and 3 are concerned) and the consequential proceedings issued by the 5th respondent/Additional Assistant Elementary Educational Officer in A.Thi.Mu.No.684/A2/2015 dated 01.08.2016 are hereby quashed. The 4th respondent / District Elementary Educational Officer to approve forthwith the appointment of A.Alexander as BT Assistant in Maths in the petitioner school w.e.f the date of his appointment on 23.01.2013 with all attendant benefits including the arrears of salary and allowance, within a period of four weeks from the date of receipt of a copy of this order.

6. In the result, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

rj2



1.The Secretary, State of Tamil Nadu
Department of School Education
Fort St.George, Chennai - 600 009.

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

3.The Chief Educational Officer
Ramanathapuram
Ramanathapuram District.

4.The District Elementary Educational Officer
Ramanathapuram, Ramanathapuram District.

5.The Additional Assistant Elementary
Educational Officer, Thiruvadanai
Ramanathapuram District.

JAM/28.02.17 /PM-PN/SAR 3/4P-6C

W.P. (MD) No.19769 of 2016
and W.M.P (MD) No.14253 & 14254 of 2016
28.11.2016