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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2016

CORAM :

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.21017 of 2016

and

W.M.P (MD) Nos.15025 and 15026 of 2016

R.Sakila

... Petitioner

vs.

1)The State of Tamil Nadu,
Rep. by it's Principal Secretary,
School Education Department,
Fort St.George,
Chennai-600 009.

2)The Director of School Education,
Office of the Director of School Education,
Nungambakkam,
Chennai-600 006.

3)The Chief Educational Officer,
Office of the Chief Educational Officer,
Virudhunagar,
Virudhunagar District.

4)The District Educational Officer,
O/o the District Educational Officer,
Aruppukottai,
Virudhunagar District.

5)The Secretary,
R.U.K.N.M.S.P.N. High School,
Ramanaickanpatti,
Chidambarapuram Post-626 134,
Aruppukottai Taluk,
Virudhunagar District.

... Respondents

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 order passed by the 4th respondent in his proceedings in Ni.Mu.No.0946/A1/2016 dated 27.05.2016 and quash the same as illegal in so far as it relates to giving effect from 17.02.2016 instead of from 09.02.2015 and consequentially to direct the respondent to approve



the appointment of the petitioner w.e.f.09.02.2015 the date on which the petitioner joined as B.T. Assistant (Science) in the 5th respondent school within the period that may be stipulated by this Hon'ble Court.

WEB COPY For Petitioner : Mr.H.Mohammed Imran for
M/s.Ajmal Associates

For R1 to R4 : Mr.V.R.Shanmuganathan
Special Government Pleader

ORDER

The petitioner has filed this writ petition, challenging the order dated 27.05.2016, passed by the 4th respondent, by which, the petitioner has been granted approval from 17.02.2016 and not from the date of her joining namely, 09.02.2015.

2.The 4th respondent school is a private non minority school and it is governed by the Tamil Nadu Private Schools (Regulation) Act and Rules. On account of the promotion of one Mr.Raghavan, the post of B.T. Assistant in the subject of Science, became vacant in the 5th respondent school. A paper advertisement was published to fill up the said vacancy, apart from calling for the names of the eligible candidates from the employment exchange. Ultimately, the petitioner was appointed in the said vacancy on 07.02.2015 and she joined on 09.02.2015. The 5th respondent school submitted a proposal to the 4th respondent, seeking approval of the appointment of the petitioner and the same was approved, but not from the date of appointment but from the later date. Even though the petitioner was appointed on 07.02.2015, the approval has been granted only from 17.02.2016. This order is under challenge in this writ petition.

3.The learned counsel for the petitioner would submit that even though the petitioner was appointed on 07.02.2015, that too, after obtaining permission by the proceedings of the Chief Educational Officer, Virudhunagar, dated 31.12.2014, wherein, it has been mentioned that on account of the promotion of a teacher by name, Raghavan, on 02.06.2014, permission is granted to fill up the post of B.T. Assistant (Science).

4.The grievance of the petitioner is that when permission has been granted from 31.12.2014, and accordingly, when the vacancy has been filled up on 07.02.2015 by appointing the petitioner, the approval has been granted only from 17.02.2016, which is illegal and therefore, the impugned order is liable to be set aside.

5.As rightly contended by the learned counsel for the petitioner, permission to fill up the post itself has been granted



on 31.12.2014, by the proceedings of the Chief Educational Officer, Virudhunagar and when there is no illegality in filling up the said post of B.T Assistant (Science), permission ought to have been granted only from 09.02.2015 and not from 17.02.2016, the date on which, other B.T. Assistant post has been filled up.

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6. Under such circumstances, the impugned order is set aside and the respondents are directed to approve the appointment of the petitioner with effect from 09.02.2015 and appropriate orders shall be passed within a period of four weeks from the date of receipt of a copy of this order.

With the above directions, this Writ Petition is allowed. No costs. Consequently, W.M.P(MD) Nos.15025 and 15026 of 2016 are closed.

Sd/-

Assistant Registrar(CRL)

/True Copy/

Sub Assistant Registrar

nbi

To

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

2) The Director of School Education,
Office of the Director of School Education,
Nungambakkam, Chennai-600 006.

3) The Chief Educational Officer,
Office of the Chief Educational Officer,
Virudhunagar, Virudhunagar District.

4) The District Educational Officer,
O/o the District Educational Officer,
Aruppukottai, Virudhunagar District.

+1cc to M/s Ajmal Associates Advocate Sr.No. 67255

+1cc to Spl. Government Pleader Sr.No. 67279

JAM/25.11.16/SKS-RR/3p-7c

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