



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2016

CORAM :

THE HONOURABLE DR.JUSTICE S.VIMALAWrit Petition (MD) No.23267 of 2016andW.M.P(MD)Nos.16708 and 16709 of 2016

B.Vasanthi

.... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep by its Principal Secretary,
Department of School Education,
Fort St., George, Chennai 600 009.
 - 2.The Director of Elementary Education,
DPI Campus, College Road,
Nungambakkam, Chennai 600 006.
 - 3.The District Elementary Educational Officer,
Trichy District, Trichy.
 - 4.The Assistant Elementary Educational Officer,
Anthanalloor Union at Mutharasanallur,
Srirangam Taluk, Trichy District.
 - 5.Bharathi Elementary School,
Rep by its Correspondent and Secretary,
Allur, Srirangam Taluk,
Trichy District.
- ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.0714/Aa4/2015 dated 29.09.2016 quash the same and direct the respondents 3 and 4 to approve the petitioner's appointment as Secondary Grade Teacher in the 5th respondent school with effect from 01.06.2015 with attendant monetary benefits.

For Petitioner

:Mr.R.Subramanian

**ORDER**

This writ petition has been filed to quash the order passed by the third respondent in Na.Ka.No.0714/Aa4/2015, dated 29.09.2016 and to direct the respondents 3 and 4 to approve the petitioner's appointment as Secondary Grade Teacher in the fifth respondent school with effect from 01.06.2015 with all attendant monetary benefits.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents. By consent, the writ petition itself is taken up for final disposal at the stage of admission.

3. The factual matrix leading to filing of this writ petition is narrated as under:

The petitioner herein is the Diploma holder in Teacher Education and has passed M.Sc., and secured 85 marks in TET, conducted in the year 2013. She is eligible to be appointed as Secondary Grade Teacher. She belongs to Scheduled Caste Arundadhiyar Community.

3(i) The fifth respondent school is a non-minority school and a vacancy arose in the post of Secondary Grade Teacher due to the voluntary retirement of one Mary Sornageetham on 31.12.2014. The fifth respondent school has issued a notification, calling for applications for the said post from Scheduled Caste Arundadhiyar Community. The petitioner has applied for the same. The fifth respondent has also requested the Employment Exchange, Trichy, to sponsor candidates for the said post. After conducting interview, by the order dated 29.05.2015, the fifth respondent appointed the petitioner as Secondary Grade Teacher and she joined service on 01.06.2015 and thereafter, the petitioner is working in the said school continuously.

(ii) On 05.06.2015, the fifth respondent has sent a proposal for approval of appointment of the petitioner and the same was forwarded by the fourth respondent to the third respondent by the proceedings dated 12.06.2015. The third respondent has returned the proposal and directed to produce certain documents. The fifth respondent has re-submitted the proposal and the same was once again forwarded by the fourth respondent to the third respondent and the same is kept pending with the respondents. The petitioner is working in the school for more than one year without any salary and therefore, she filed a writ petition in WP(MD)No.12528 of 2016.

(iii) This Court by the order dated 18.07.2016, directed the third respondent to pass orders on the proposal for approval within a period of four weeks. This Court has also held that the petitioner has been appointed in a sanctioned post and the petitioner is having requisite qualification and based on that observation, the petitioner sent a representation to the



respondents by enclosing a copy of the said order. Once again, the proposal has been returned, citing the pendency of the cases before the Supreme Court, relating to G.O.(Ms)No.25 School Education (TRB) Department dated 06.02.2014.

4.G.O.(Ms)No.25 School Education (TRB) Department dated 06.02.2014 and G.O(Ms.)No.71, School Education (TRB) Department dated 30.05.2014, granting relaxation on the marks obtained in the TET for the candidates belonging to reserved category was challenged before the Principal Bench of this Court wherein it has upheld the validity of the Government Orders. Once again, the matter was challenged before the Hon'ble Supreme Court and the Supreme Court, in Civil Appeal No.10700 of 2016 dated 09.11.2016, has also upheld the competency of the State Government to grant such kind of relaxation.

5.Quoting the judgment of the Hon'ble Supreme Court, it is contended by the learned counsel for the petitioner that rejection of approval based on the ground that the issue is pending before the Supreme Court cannot stand, in view of the order passed by the Hon'ble Supreme Court and the respondents have to consider the claim of the petitioner, in the light of the judgment of the Supreme Court.

6.A perusal of the impugned order passed by the third respondent would go to show that approval has not been granted on the ground that similar issue is pending before the Supreme Court.

7.Inasmuch as the validity of G.O.(Ms)No.25 School Education (TRB) Department dated 06.02.2014 giving age relaxation in respect of some category of candidates belong to a particular community, is upheld by this Court as well as by the Supreme Court, there is no impediment for the third respondent to give approval for the appointment.

8.Therefore, the respondents 3 and 4 are directed to consider the proposal within a period of four weeks from the date of receipt of a copy of this order, in the light of the judgment of the Hon'ble Supreme Court in Civil Appeal No.10700 of 2016, dated 09.11.2016.

9.The writ petition is disposed of with the above direction. No costs. Consequently, WMP(MD)No.16708 & 16709 of 2016 are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar



To

- 1.The Principal Secretary,
Government of Tamil Nadu,
Department of School Education,
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- 2.The Director of Elementary Education,
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Trichy District, Trichy.
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Anthanalloor Union at Mutharasanallur,
Srirangam Taluk, Trichy District.

+1cc to Mr.R.SUBRAMANIAN, Advocate Sr.No. 78229

+1cc to Spl.Government Pleader Sr.No. 78144

JAM/09.02.17/CM-MSA/ 4P-7C

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