



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.03.2016

CORAM

THE HONOURABLE **MRS. JUSTICE PUSHPA SATHYANARAYANA**

WEB COPY

W.P (MD) .No.2785 of 2016

and

W.M.P. (MD) No.2474 of 2016

M.BALASATHYA

.. Petitioner

Vs.

1. THE DIRECTOR OF SCHOOL EDUCATION,
D.P.I. COMPOUND,
COLLEGE ROAD, CHENNAI.
2. THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
TIRUNELVELI DISTRICT,
TIRUNELVELI.
3. THE ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
VALLIYOOR RANGE,
VALLIYOOR, TIUNELVELI DISTRICT, TIRUNELVELI.
4. THE CORRESPONDENT,
MELIM PRIMARY SCHOOL, AMBALAVANAPURAM,
VALLIYOOR RANGE.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 1st respondent in his proceedings O.Mu.No.1666/A1/2015 dated 07.12.2015 and quash the same and direct the respondents to approve the appointment of the petitioner from the date of appointment i.e. from 20.04.2015 and confer all the consequential benefits.

For Petitioner : Mr.S.Chellapandian

For R1 to R3 : Mr.V.Muruganandam

Additional Government Pleader

For R4 : Mr.Madhavan

ORDER

The writ petition has been filed challenging the order of the first respondent, dated 07.12.2015 and for a direction to the respondents to approve the appointment of the petitioner from the date of appointment i.e. from 20.04.2015 and confer all the consequential benefits.



2. Heard both sides.

3. The case of the petitioner is that she was appointed as Secondary Grade Teacher in the fourth respondent school on 20.04.2015 in a vacancy caused on account of voluntary retirement of one Mr. Ganasigamani. A proposal was submitted by the fourth respondent management seeking approval of appointment of the petitioner. The first respondent, by the impugned order dated 07.12.2015, declined to approve the appointment of the petitioner on the ground that there are surplus teachers in the other schools run by the same management, and therefore, the appointment of the petitioner cannot be approved. Challenging the said order, the petitioner, has come forward with the present writ petition.

4. In similar circumstances, this Court has considered the issue on various occasions in several Judgments and repelled the stand taken by the respondents. The said Judgments were also implemented.

5. In a similar matter in **W.A. (MD) Nos. 798 and 799 of 2015, dated 22.07.2015**, the Division Bench of this Court, in paragraph Nos. 3 to 5, has held as follows:-

"3. According to the first respondent/writ petitioners, they were appointed as Secondary Grade Teacher, based on their qualification in the 2nd respondent schools, against permanently sanctioned posts and therefore their appointments ought to have been approved by the educational authorities. However, it is the contention of the appellants that already there are surplus teachers in the 2nd respondent schools. However, rejecting the contentions of the appellants, the writ Court has allowed the writ petitions filed by the 1st respondents/writ petitioners.

4. Mr. V. Panneerselvam, learned counsel for the contesting first respondent, submitted that the issues raised in these writ appeals are already covered by a decision of this Court in W.A. (MD) Nos. 639 to 642 of 2015, etc. batch, dated 17.06.2015. Mr. A. K. Baskara Pandian, learned Special Government Pleader, appearing for the appellants, accepts the same.

5. Recording the submissions of the learned counsel for the parties that the issues raised in these writ appeals are already covered by the above said decision, both the writ appeals are dismissed in the light of the common order, dated 17.06.2015 passed in W.A. (MD) No. 639 to 642 of 2015, etc. batch. No order as to costs. Connected Miscellaneous Petitions are also dismissed."



6. In view of the said settled position, there is no justification to deny the approval of appointment as sought for by the petitioner, as the petitioner was appointed in a sanctioned vacancy and the school, in which the petitioner was appointed, is eligible to retain the said post and the petitioner is fully qualified for being appointed in the said post.

7. Applying the said Judgments to the facts of this case, the impugned order, dated 30.05.2011 passed by the first respondent is set aside and the Writ Petition is allowed. The respondents are directed to approve the appointment of the petitioner from the date of her appointment i.e. From 20.04.2015 with salary and other benefits. The respondents shall pass orders within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Record)

/True copy/

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.

rj2

To

1. THE DIRECTOR OF SCHOOL EDUCATION,
D.P.I. COMPOUND,
COLLEGE ROAD, CHENNAI.
2. THE DISTRICT ELEMENTARY EDUCATIONAL OFFICER,
TIRUNELVELI DISTRICT,
TIRUNELVELI.
3. THE ASSISTANT ELEMENTARY EDUCATIONAL OFFICER,
VALLIYOOR RANGE, VALLIYOOR, TIRUNELVELI DISTRICT,
TIRUNELVELI.
4. THE CORRESPONDENT,
MELIM PRIMARY SCHOOL, AMBALAVANAPURAM, VALLIYOOR RANGE.

+1 cc to Special Government Pleader SR No.13789

+1 cc to Mr.S.Chellapandian, Advocate, SR No.13487

Order made in
W.P(MD) .No.2785 of 2016
and

W.M.P. (MD) No.2474 of 2016
10.03.2016