



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)No.988 of 2013

and

M.P(MD)No.1 of 2013

P.Jeyalakshmi

... Petitioner

vs.

1)The Director of School Education,
Chennai-6.

2)The Chief Educational Officer,
Tuticorin.

3)The District Educational Officer,
Tuticorin.

4)The Correspondent,
St.Lusia High School,
Kurumbur,
Tuticorin District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to approve the petitioner appointment as a B.T. Assistant from the date of appointment i.e. on 09.09.2009 and confer all the consequential benefits.

For Petitioner : Mr.V.Panneer Selvam for
M/s.C.S.Associates

For Respondents : Mr.Aayiram K.Selvakumar
Government Advocate

ORDER

The petitioner has filed this writ petition for issuance of a Writ of Mandamus, directing the respondents to approve her appointment as B.T. Assistant from the date of her appointment on 09.09.2009 and to confer all the consequential benefits.

2.Learned counsel for the petitioner would submit that the petitioner/P.Jeyalakshmi, possessing B.Sc Zoology was appointed as B.T. Assistant in the 4th respondent school, which is a minority institution. Subsequently, it was upgraded as Middle School and after sometime during the academic year 1997-98 further upgraded



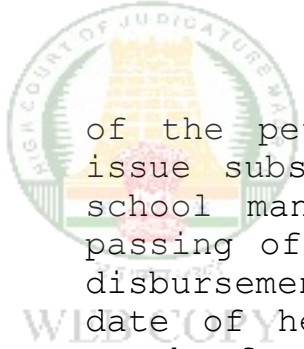
as High School. The 4th respondent school is also fully aided upto Standard VIII. However, the Standards IX and X are self-financed. In view thereof, the 4th respondent management requested the respondents 1 to 3 to sanction additional teaching and non teaching staff.

3. He would further submit that in the light of G.O.Ms.No.292, School Education Department, dated 29.11.2000 one post of Secondary Grade Teacher was sanctioned to the 4th respondent school and the same was also communicated to the school by the proceedings of the Director of School Education dated 05.01.2001, but in the said proceedings, the name of the 4th respondent school was wrongly mentioned as St.Lucas Higher Secondary School, instead of St.Lusia High School, therefore, to rectify the said typographical error, the 4th respondent school made a representation to the 1st respondent on 21.02.2001 to correct the error and the 2nd respondent also forwarded the said representation to the 1st respondent on 06.06.2001. In the meantime, in the year 2003, the Government have issued orders upgrading the post of Secondary Grade Teacher as B.T Assistant in Standards VI, VII and VIII.

4. Adding further, he would submit that though the post of Secondary Grade Teacher was sanctioned in the year 2001, the same should be filled up by a B.T Assistant, for the reason that the post was automatically upgraded as B.T. Assistant from the year 2003, therefore, keeping in mind the interest of the students, the 4th respondent school appointed the petitioner as B.T Assistant on 08.09.2009. Immediately, the proposal therefor was also sent to the 3rd respondent for approval on 23.09.2009. In the meanwhile, the typographical error committed in the proceedings of the 1st respondent dated 05.01.2001 came to be rectified by proceedings dated 09.02.2012 mentioning the correct name of the 4th respondent school as St.Lusia High School, therefore, when the 1st respondent has agreed with the sanctioned strength of the teacher for the post of B.T Assistant in the 4th respondent school, he pleaded, it is not open to the 3rd respondent to take a different stand in the counter that the post of B.T. Assistant, in which the petitioner was appointed became surplus, thus the approval for appointment of the petitioner cannot be granted.

5. Learned counsel for the petitioner also submitted that even if the District Educational Officer, 3rd respondent is of the view that the petitioner cannot be appointed in the 4th respondent school namely, he can appoint the petitioner in any other school of the same Management, depending upon the strength of the students and in that event, the petitioner without raising any objection, would accept the order of transfer on the ground of service within the same management of the 4th respondent school.

6. In view of the above submission and also the stand taken by the 3rd respondent in the counter affidavit that the post of B.T Assistant in the 4th respondent/St.Lusia High School has become surplus, the 3rd respondent is directed to approve the appointment



of the petitioner in the post of B.T. Assistant and thereupon issue subsequent order transferring the petitioner to any other school managed by the 4th respondent. Needless to mention that passing of the approval order of the petitioner's appointment and disbursement of the arrears of salary to the petitioner from the date of her appointment, shall be done within a period of two months from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of. No costs. M.P (MD) No.1 of 2013 is closed.

Sd/-
Assistant Registrar (AS)

/TRUE COPY/

Sub Assistant Registrar

To

- 1) The Director of School Education,
Chennai-6.
- 2) The Chief Educational Officer,
Tuticorin.
- 3) The District Educational Officer,
Tuticorin.

+1cc to M/S.V.Panneer selvam, Advocate, SR NO: 33242

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO: 33204

nbi

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W.P (MD) No.988 of 2013
24.06.2016