

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2017

CORAM:

THE HON'BLE MR. JUSTICE T. RAJA

W.P. No.6814 of 2017 & W.M.P. No.7379 of 2017

S. Shanmugapriya ... Petitioner

vs.

- 1 The District Elementary Educational Officer
Nagapattinam District
Nagapattinam
- 2 The Additional Assistant Elementary Educational Officer
Kuthalam
Nagapattinam District
- 3 The Secretary
Ganapathi National Middle School
Kuthalam
Nagapattinam District ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to pass appropriate orders for approval of appointment of the petitioner in the post of B.T. Assistant (Maths) in the third respondent school by applying rule of reservation as per the terms of G.O. Ms.No.55, P. & A.R. Department dated 08.04.2010 and consequently, direct the respondents for arrears of salary from the date of initial appointment from 30.05.2011 with arrears of salary along with interest for belated payment.

For petitioner Mr. G. Sankaran

For RR 1 & 2

Mr. V. Anandhamoorthy
Additional Government Pleader

ORDER

Mr. V. Anandhamoorthy, learned Additional Government Pleader, accepts notice for respondents 1 and 2.

2 This writ petition has been filed seeking a writ of mandamus directing the first respondent to pass appropriate orders for approval of appointment of the petitioner in the post of B.T. Assistant (Maths) in the third respondent school by applying rule of reservation as per the terms of G.O. Ms.No.55, P. & A.R. Department dated 08.04.2010 and consequently, direct the respondents for arrears of salary from the date of initial appointment from 30.05.2011 with arrears of salary along with interest for belated payment.

3 The petitioner's case, in a nutshell, is as under:

3.1 The petitioner is a qualified teacher with B.Sc. Maths and B.Ed. qualification and she took part in the selection conducted by Ganapathi National Middle School, Kuthalam, Nagapattinam District, the third respondent herein, for the post of Secondary Grade Teacher, which arose in view of the upgradation of the post of Secondary Grade Teacher as B.T. Assistant, as per the proceedings issued by the first respondent dated 17.05.2011.

3.2 The third respondent, being a Government-aided school, on upgradation of the post of Secondary Grade teacher as B.T. Assistant, after getting permission to fill up the post with qualified persons for the academic year 2010-2011, conducted selection process to fill up the post of B.T. Assistant (Maths) and the petitioner was selected and issued with the appointment order as per proceedings in Na.Ka.No.12/2011 dated 30.05.2011, pursuant to which, she joined the said post and is continuously working till date.

3.3 After appointing her, the third respondent school forwarded a proposal to the first respondent, through the Additional Assistant Elementary Educational Officer, Kuthalam, the second respondent herein, seeking approval for appointment of the petitioner with effect from 01.06.2011. But, the second respondent returned the same calling upon the third respondent school to submit the records relating to roster (Roster Register) in order to ascertain the compliance of rule of reservation for appointment.

3.4 Since a vacancy to the post of B.T. Assistant arose earlier due to the promotion of one Mathivanan, working as B.T. Assistant as Headmaster in general turn on 06.04.2009 as per the roster prescribed in G.O. Ms.No.206, P. & A.R. Department dated 06.11.2008, the Government also issued G.O. Ms. Nos.101 dated 30.05.2008 and 206 dated 06.11.2008 followed by another Government Order in G.O. Ms.No.65, P. & A.R. Department dated 27.05.2009 revising the roster.

3.5 Since G.O.Ms.No. 65, P. & A.R. Department dated 27.05.2009 clearly shows that the roster prescribed in the order shall be made applicable in respect of those selections made by recruiting agencies and appointments made on or after 29.04.2009, it is the case of the third respondent school that it has followed roster system by appointing the petitioner in the general turn. This was also clarified in the proposal dated 27.07.2015 addressed by the third respondent school to the first respondent.

3.6 Thus, when the clarification sought by the second respondent has been satisfactorily answered by the third respondent, the request of the third respondent school to grant approval of appointment of the petitioner as B.T. Assistant cannot be delayed indefinitely, especially when the petitioner has not been paid salary from 01.06.2011. Hence, the present writ petition seeking the aforestated relief.

4 When a vacancy for the post of Secondary Grade teacher arose due to the retirement of an incumbent on 31.05.2010, the third respondent school forwarded a proposal to the first respondent seeking upgradation of the post of Secondary Grade teacher as B.T. Assistant and filling up the same with a qualified teacher. Accepting the said request, the first respondent also, vide his proceedings dated 17.05.2011, upgraded the post of Secondary Grade teacher as B.T. Assistant and granted permission to fill up the same with a qualified person for the academic year 2010-2011. Pursuant thereto, the petitioner was selected and posted as B.T. Assistant as per the proceedings dated 30.05.2011 and she also joined duty on 01.06.2011. Subsequently, when the third respondent sent proposal seeking approval of appointment of the petitioner as B.T. Assistant (Mathematics), the second respondent sought clarification as to whether the third respondent school has complied with G.O. Ms. No.65, P. & A.R. Department dated 27.05.2009, which prescribes application of roster system. In turn, the third respondent school also, vide their letter dated 27.07.2015, clarified the position that the petitioner was appointed only by following the roster system in general turn category.

5 Therefore, the first respondent shall consider the clarificatory letter dated 27.07.2015 of the third respondent school and process the grant of approval of the petitioner's appointment as B.T. Assistant (Mathematics) in the said school and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, this writ petition stands disposed of. No costs. Connected W.M.P. is closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

- 1 The District Elementary Educational Officer
Nagapattinam District
Nagapattinam
- 2 The Additional Assistant Elementary Educational Officer
Kuthalam
Nagapattinam District
- 3 The Secretary
Ganapathi National Middle School
Kuthalam
Nagapattinam District

+1cc to Government Pleader SR.No.17967

+1cc to Mr.G.Sankaran, Advocate SR.No.18278

SDR 12.04.2017

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