



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **27.06.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**

AND

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.A. [MD].No.421 of 2014

and

M.P(MD)No.1 of 2014

- 1.The Government of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Secretariat, For.St.George,
Chennai-600 009.
 - 2.The Director of School Education,
DPI Campus, College Road,
Chennai-6.
 - 3.The Chief Educational Officer,
Virudhunagar,
Virudhunagar District.
 - 4.The District Educational Officer,
Virudhunagar,
Virudhunagar District.
- : Appellants

Vs.

- 1.Chitra
 2. Veeramamunivar High School,
T.Managaseri (Post), Krishnapuri,
Virudhunagar District represented
By Rev.Fr.Correspondent
- : Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent Act, praying to set aside the order dated 21.01.2014 made in W.P.No.11030 of 2013.

Prayer in WP(MD). 11030/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 4th respondent dated 04/06/2012 in Na.ka.no. 1734/m7/2012 and quash the same and consequently direct the 4th respondent to approve petitioner appointment in the post of Graduate Teacher (History) in the 5th respondent school with effect from 01/08/2011 and consequently pay arrears of salary and all other consequent monetary and attendant benefits .



For Appellants

: Mr.V.Muruganantham

Additional Government Pleader

For Respondents

: Mr.N.Dilip Kumar

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JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.V.Muruganantham, learned Additional Government Pleader appearing for the appellants and Mr.N.Dilip Kumar, learned counsel appearing for the respondents.

2.This appeal, by the State is directed against the order dated 21.01.2014, made in W.P.(MD)No.11030 of 2013. The first respondent herein, filed the writ petition to quash the order dated 04.06.2012, passed by the fourth appellant herein and consequently, direct the appellants 1 to 4 to approve the respondent's appointment to the post of Graduate Teacher (History) in the second respondent school with effect from 01.08.2011.

3.Two impediments were pointed out by the fourth appellant herein, reiterating the grounds in the memorandum of the Writ Appeal. Firstly, the first respondent / Writ Petitioner did not pass the Teachers Eligibility Test [for brevity "TET"]. Secondly, the post was originally occupied by the Secondary Grade Teacher and on she attaining superannuation, the post fell vacant. Only when the department grants approval for conversion of the post to a Graduate Teacher post, approval can be granted.

4.The first issue is as to whether TET is required or not, has been settled by the Hon'ble Supreme Court and the second respondent institution being a Minority Aided Institution, the question of insistence of pass in TET is not necessary. That apart, as of 2013, the first respondent / Writ Petitioner has passed TET. With regard to the second issue, a Secondary Grade Teacher was working in the said school and was appointed when the school was as a Middle School, prior to it being upgraded as a High School. Thus, on upgradation, the post has to be converted as a Graduate Teacher post and such conversion being admitted, should take effect from the date on which the post fell vacant. In the instant case, it would be 03.05.2011. The respondent / Writ Petitioner was appointed on 01.08.2011. Thus, as on the said date, the post was a Graduate Teacher Post. With regard to this aspect, the learned Single Bench, took note of the decision in the case of **Corporate Manager, CSI Corporate Schools Vs. The State of Tamil Nadu rep. by its Secretary, Department of School Education and others** reported in **2006 (5) CTC 504**.

5.On an examination of the reasons assigned by the learned Single Bench, we are of the view that the Court had come to a



correct conclusion and granted the relief to the respondent / writ petitioner. In the light of the above, the appellant has not made out any grounds to interfere with the order dated 21.01.2014.

6. Accordingly, this Writ Appeal is dismissed. Further, it is submitted by the learned counsel for the respondents that the respondent's appointment has been approved only with effect from the date of conversion i.e., 10.04.2012. For the reasons assigned by us in the preceding paragraphs, the first respondent / writ petitioner's appointment as Secondary Grade Teacher shall be approved by the appellants with effect from 01.08.2011, the date of her appointment and extend all consequential benefits within a period of four months from the date of receipt of a copy of this order.

7. In the result, this Writ Appeal stands dismissed with the above direction. No costs. Consequently, the connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar

To

1. The Government of Tamil Nadu,
Represented by its Secretary to Government,
School Education Department,
Secretariat, For. St. George,
Chennai-600 009.

2. The Director of School Education,
DPI Campus, College Road, Chennai-6.

3. The Chief Educational Officer,
Virudhunagar, Virudhunagar District.

4. The District Educational Officer,
Virudhunagar, Virudhunagar District.

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 62392.

MR/RMK

PSM/GT/SAR2/10.07.2017/3P/6C

JUDGMENT MADE IN
W.A. [MD] .No.421 of 2014
27.06.2017