



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.10002 of 2014andM.P. (MD) Nos.1 and 2 of 2014

G.Saral Dhanalakshmi

... Petitioner

Vs.

1.District Elementary Educational Officer,  
Virudhunagar,  
Virudhunagar District.

2.Additional Assistant Elementary Educational Officer,  
Thiruchuli Range, M. Reddiapatti,  
Aruppukottai Taluk,  
Virudhunagar District.

3.Bishop of Madurai-Ramanad Diocese and Manager of  
Schools CSI Diocesan Office, Opposite to Office  
Mission Hospital,  
No.161, East Velli Street,  
Madurai - 625 001.

4.Correspondent,  
CSI Primary School,  
Alladipatti,  
Aruppukottai Taluk,  
Virudhunagar District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issue of a Writ of Certiorarified Mandamus, to call for the records in K.Dis.No.1701/94/2011 dated 08.10.2012 on the file of the first respondent, quash the same and consequently direct the first respondent to approve the appointment of petitioner as Secondary Grade Assistant Teacher in third respondent school with effect from 31.01.2011.

For Petitioner : Mr.K.Rajaprabhakaran

For R1 and R2 : Mr.N.S.Karthikeyan,

Additional Government Pleader.

For R3 and R4 :Mr.C.Fernandas Rathina Raja

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ORDER

This Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, challenging the impugned order passed by the first respondent dated 08.10.2012 and consequently direct the first respondent to approve the appointment of the petitioner as secondary Grade Assistant Teacher in the third respondent School with effect from 31.01.2011.

2. The brief facts which are necessary for the disposal of the writ petition are as follows:

2.1. The petitioner has completed Diploma in Teacher Education and she had qualification for being appointed as Secondary Grade Assistant Teacher. She was appointed as Secondary Grade Assistant Teacher in the fourth respondent School on 31.01.2011, in the vacancy caused by the retirement of the previous incumbent namely, Solomonraj Chandrasekaran. However, when the proposal was submitted by the fourth respondent to the first respondent on 18.03.2011, seeking approval of appointment of the petitioner, the first respondent returned the proposal to the fourth respondent by the impugned proceedings stating that there are eight surplus teachers in other schools run by CSI Diocese and that therefore, the fourth respondent cannot be permitted to appoint the petitioner. It was further suggested that the fourth respondent has to appoint only the surplus teacher from other schools administered by the same management namely, CSI Diocese. Thus, the approval for the petitioner's appointment was returned.

3. The fact that there is vacancy in the fourth respondent school and that the petitioner was appointed only in the sanctioned post by the fourth respondent school are not in dispute.

4. On behalf of the respondents 1 and 2 counter affidavit has been filed. It was contended by the respondents 1 and 2 that the fourth respondent cannot be permitted to appoint anyone from outside when surplus teachers are available in other schools run by the third respondent. The same objection for approving the appointment of the petitioner by the first respondent in similar circumstances was considered by this Court in several cases.

5. In all such cases, this Court has consistently taken the view that approval for the appointment of the teacher in a particular school cannot be refused, even if there are surplus teachers available in other schools run by the same management. It is made clear that it is open to the Educational Authority to initiate action against those schools, where there are surplus teachers and that the availability of teachers in other schools cannot be the reason to refuse to grant approval to the appointment in the school, where the appointment was made strictly to fill up a sanctioned post.



6. In view of the law settled in several decisions, the writ petition is allowed and the impugned order passed by the first respondent dated 08.10.2012 is quashed. The first respondent is directed to approve the petitioner's appointment in the fourth respondent school as Secondary Grade Assistant Teacher w.e.f 31.01.2011 and disburse salary and other monetary benefits and service benefits within a period of eight weeks from the date of receipt of a copy of this Order. No Costs. Consequently, the connected M.P.(MD) Nos.1 and 2 of 2014 are closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar.

To

1.District Elementary Educational Officer,  
Virudhunagar,  
Virudhunagar District.

2.Additional Assistant Elementary Educational Officer,  
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CSI Primary School,  
Alladipatti,  
Aruppukottai Taluk,  
Virudhunagar District.

+1CC to M/S.K.Raja Prabakaran, Advocate, SR.No. 59564

+1CC to M/S.C.Fernandas Rathina Raja, Advocate, SR.No. 59684

+1CC to the Special Government Pleader SR.No. 59783

W.P.(MD) No.10002 of 2014  
and

M.P.(MD) Nos.1 and 2 of 2014  
09.06.2017