



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 03.01.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P (MD) No.12924 of 2014

WEB COPY

P.Alpohonsal,
Wife of Deva Kumar,
Junior Assistant,
St.Joseph Higher Secondary School,
Vizhunthayampalam,
Kanyakumari District.

... Petitioner

vs.

- 1)The State of Tamil Nadu,
Rep by the Secretary to Government,
School Education,
Secretariat, Chennai-600 009.
- 2)The Director of School Education,
College Road,
Chennai-600 006.
- 3)The Chief Educational Officer,
Nagercoil, Kanyakumari District.
- 4.The District Educational Officer,
Kuzhithurai,
Kanyakumari District.
- 5.The Correspondent,
St.Joseph Higher Secondary School,
Vizhunthayampalam,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents 1 to 4 to approve the appointment of the Petitioner herein in the post of Junior Assistant w.e.f. 3.3.2008 and to pay the arrears of salary with all other attendant benefits to the Petitioner for the period from 3.3.2008 to 1.6.2009.

For Petitioner : M/s.D.Anbarasu
For R1 to R4 : Mr.A.K.Baskarapandian
Special Govt.Pleader
For R5 : No appearance

ORDER

This writ petition has been filed, for issuance of a Writ of Mandamus directing the respondents 1 to 4 to approve the appointment of the Petitioner herein in the post of Junior Assistant w.e.f. 3.3.2008 and to pay the arrears of salary with all other attendant benefits to the Petitioner for the period from 3.3.2008 to 1.6.2009.

2.Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.



3.As far as the Petitioner's appointment was approved as early as in the year 2009 and even though the Petitioner has been appointed in the year 2008, the Petitioner has approached this Court after a delay of five years.

4.On perusal of the Counter affidavit, it is seen that the Petitioner was appointed as Junior Assistant on 2.5.2008 in the sanctioned post by the second respondent Office, on account of retirement of one Gopalan. There was a ban for appointment of non-teaching Staffs which has been lifted on 7.2.2016, based on G.O.No.189, dated 29.7.2009 and thereafter the schools were directed to fill up the vacancies w.e.f. 1.6.2009. On account of the ban, the Petitioner will not be able to claim the salary from 3.3.2008 to 21.5.2009 and thereafter liable for salary from 1.6.2009. After the ban was lifted, the post of the Petitioner has been approved. Even though the Petitioner was appointed during the ban period, taking note of the service rendered by the Petitioner, her post was approved after lifting of ban imposed by the State Government. Therefore the Petitioner cannot have any grievance over the same. As otherwise, the appointment w.e.f the year 2008 itself is illegal.

5.Since the Petitioner's post has been sanctioned by the authorities concerned, after the lifting of ban period by the State Government, this Writ Petition stands disposed Of. No costs.

Sd/-

Assistant Registrar(Co)

/True Copy/

Sub Assistant Registrar

To

1)The State of Tamil Nadu,
Rep by the Secretary to Government,
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Secretariat, Chennai-600 009.

2)The Director of School Education,
College Road,
Chennai-600 006.

3)The Chief Educational Officer,
Nagercoil, Kanyakumari District.

4)The District Educational Officer,
Kuzhithurai,
Kanyakumari District.

Vsn

AE/CM MSA/31.01.2017/2p/5c