



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A.[MD].No.26 of 2017

and

C.M.P. (MD).No.331 of 2017

1.The District Elementary Educational Officer,
Pudukkottai District, Pudukkottai.

2.The Assistant Elementary Educational Officer,
Viralimalai, Pudukkottai District.

: Appellants

Vs.

1.A.Beula Petresia Mala

2.The Correspondent,

St.Nobert R.C.School, Mathur,
Pudukkottai District.

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 08.12.2015 made in M.P.(MD).No.1 of 2015 in W.P.(MD).No.17380 of 2015, on the file of this Court.

Prayer in WP(MD)1 of 2015 in W.P(MD)NO.17380/2015:

Petition filed to issue an interim direction to the respondents herein to release the salary to the petitioner pending disposal of the Writ Petition.

Prayer in WP(MD). 17380/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS directing the respondents herein to release the salary to the petitioner from the date of appointment of the petitioner i.e. (01.02.2012).

For Appellant : Mr.VR.Shanmuganathan
Special Government Pleader

For Respondent No.1 : Mr.R.Karunanithi

JUDGMENT

[Judgment of the Court was made by R.SUBBIAH, J.]

This Writ Appeal has been filed as against the interim order, dated 08.12.2015, made in M.P.(MD).No.1 of 2015 in W.P.(MD).No.17380 of 2015.

2. The said Writ Petition was filed by the first respondent herein seeking a Writ of Mandamus directing the respondents herein to release salary to the petitioner from the date of appointment, viz., 01.02.2012.



3. The case of the first respondent before the learned Single Judge was that she was appointed as a Secondary Grade Teacher in the second respondent school on 01.02.2012, in a permanent vacancy, caused on account of the promotion given to one Mrs.S.Selin Victoria as Elementary School Headmasters. The second respondent school sought for approval of appointment of the first respondent. The first appellant also passed an order on 17.04.2012, approving the appointment of the first respondent on condition that she should get qualified in Teachers Recruitment Board, within a period of five years. In spite of approval granted by the first appellant dated 17.04.2012, no salary has been given to the first respondent.

4. Under the said circumstances, the first respondent filed the said Writ Petition. The learned Single Judge, by way of interim order, dated 08.12.2015, directed the respondents therein to grant salary to the first respondent from 17.04.2012, as per the order of the first appellant. The said order is challenged in this Writ Appeal.

5. Mr.VR.Shanmuganathan, the learned Special Government Pleader appearing for the appellants, submitted that the approval of appointment of the first respondent herein was not at all granted, as it is projected by the learned counsel for the first respondent and no order was issued and the said order was only on the file of the first respondent. In fact, the said order was subsequently cancelled by issuing yet another order. However, the first respondent managed to obtain a xerox copy of the said order and filed the said Writ Petition. The learned Special Government Pleader further submitted that if the interim order passed by the learned Single Judge is implemented, then, it would amount to allowing the main Writ Petition and therefore, he prayed for setting aside the order of the learned Single Judge.

6. The said submission made by the learned Special Government Pleader is stoutly opposed by the learned counsel appearing for the first respondent.

7. We have considered the above submissions and we have also perused the records carefully.

8. In our considered view, as rightly contended by the learned Special Government Pleader, if the interim order passed by the learned Single Judge is implemented, then, it would amount to allowing the main Writ Petition. Therefore, on that score alone, the order passed by the learned Single Judge is liable to be set aside.

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9. In the result, the order dated 08.12.2015, made in M.P. (MD).No.1 of 2015, in W.P.(MD).No.17380 of 2015, is set aside and



the learned Single Judge is requested to take up the main Writ Petition and dispose of the same, at the earliest.

10. The Writ Appeal is allowed, as indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Crl Side)

/True Copy/

Sub Assistant Registrar

To

1.The District Elementary Educational Officer,
Pudukkottai District, Pudukkottai.

2.The Assistant Elementary Educational Officer,
Viralimalai, Pudukkottai District.

Copy to

1.The Section officer,
Writ Section
(for posting WP(MD))

+1cc to Mr.Ananda Kumar, Advocate Sr.No.3160

NB

AE/SV MMS/01.02.2017/3p/5c

JUDGMENT MADE IN
W.A.[MD].No.26 of 2017
19.01.2017