



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2017

CORAM:

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**THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

**W.A. [MD].No.1590 of 2016
and
C.M.P. (MD)No.11919 of 2016**

- 1.The Director of School Education,
Chennai-6.
- 2.The Chief Educational Officer,
Tuticorin.
- 3.The District Educational Officer,
Kovilpatti, Tuticorin District. : Appellants

Vs.

- 1.R.Vani
- 2.Secretary,
Shyamala Higher Secondary School,
Illuppaiyurani, Kovilpatti-628 502,
Tuticorin District. : Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order of a learned Judge of this Court dated 04.02.2011, made in W.P.(MD).No.561 of 2008.

Prayer in WP(MD). 561/ 2008 :

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 pertaining to the order passed by the 1st respondent in his proceedings Na.Ka.No. 57838/D1/2002 dated 01/10/2004 and the consequential order passed by the 3rd respondent in his proceedings Rc.No. 7367-B2/2004 dated 30//11/2004 and quash the same, and direct the respondents to approve the appointment of the petitioner as Secondary Grade Teacher from the date of appointment i.e 11/01/2003 and sanction annual increments and confer all the consequential benefits

For Appellants : Mr.VR.Shanmuganathan,
Special Government Pleader
For Respondent No.1 : Mr.V.Panneer Selvam

**JUDGMENT**

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

This Writ Appeal has been filed by the appellants as against the order passed by the learned Single Judge of this Court dated 04.02.2011, in W.P.(MD)No.561 of 2008, allowing the Writ Petition filed by the first respondent to quash the order passed by the first appellant dated 01.10.2004 and the consequential order passed by the third appellant dated 30.11.2004 and consequently, to direct the appellants to approve the appointment of the first respondent herein as a Secondary Grade Teacher from the date of appointment i.e., 11.01.2003 and sanction annual increments and confer all the consequential benefits.

2. The case of the first respondent/writ petitioner before the learned Single Judge was that a Secondary Grade Teacher post in the second respondent School fell vacant on 01.07.2002 due to retirement of one Jayalakshmi. The second respondent Management applied for permission to fill up the said post and permission was granted by the second appellant on 12.11.2002. Thereafter, after following the procedure, the first respondent was appointed on 11.01.2003 and papers were forwarded for approval on 13.01.2003, but, the same was rejected by the third appellant on 18.02.2003. On appeal by the Management, the appellate authority directed the second and third appellants to re-consider the approval on the basis of G.O.Ms.No.130, School Education Department, dated 27.09.2004. However, the third respondent, by impugned proceedings dated 30.11.2004, granted approval on consolidated pay from 01.06.2003 as Junior Grade Secondary Grade Teacher. Hence, the first respondent filed the Writ Petition. The said Writ Petition was allowed by the learned Single Judge, having regard to the fact that the issue involved in the Writ Petition is covered by the earlier judgment of this Court in W.P.(MD)No.2051 of 2005. Challenging the same, the appellants are before this Court.

3. The learned Special Government Pleader appearing for the appellants submits that though the first respondent was appointed on 11.01.2003, on humanitarian basis, her appointment was approved from 01.06.2003 on consolidated pay. Moreover, the proceedings dated 30.11.2004 was accepted by the first respondent and she had also executed an agreement to serve on consolidated pay from 01.06.2003. Further, the judgment relied on by the learned Single Judge in W.P.(MD)No.2051 of 2005 is not applicable to the case on hand, because, in this case, the vacancy arose after the issuance of G.O.Ms.No.79, dated 14.06.2002. Therefore, the order of the Writ Court is liable to be interfered with.

4. The learned counsel for the first respondent, by placing <https://hcservices.apnic.gov.in/hcservices/> before the Court, challenges the judgment of this Court in W.P.(MD)No.2051 of 2005, submits that in an identical situation, a similarly placed person



was granted approval and hence, following the same, Writ Court has given a direction to approve the appointment of the first respondent as Secondary Grade Teacher. Hence, the learned Single Judge has correctly dealt with the issue and passed the order, which need not warrant any interference by this Court.

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5. Keeping in mind the above said submissions made on either side, we have gone through the materials available on record.

6. In our considered view and as rightly contended by the learned counsel for the first respondent, in an identical situation, similarly placed person was granted approval and hence, following the same, the learned Single Judge has given a direction to approve the appointment of the first respondent as Secondary Grade Teacher. The learned Single Judge, while allowing the Writ Petition in W.P.(MD)No.2051 of 2005, made reliance on the Government Orders issued in G.O.Ms.No.79, School Education Department, dated 14.06.2002 as well as G.O.Ms.No.130, School Education Department, dated 27.09.2004 and granted the relief of approval for appointment. The said order of this Court was also implemented by the third appellant herein through his proceedings in Na.Ka.No.248/Aa.4/05, dated 20.04.2010. Hence, following the same, the Writ Petition filed by the first respondent herein was allowed. Thus, in our considered view, a similar yardstick has to be applied to the case of the first respondent also. Therefore, we are not inclined to interfere with the order passed by the learned Judge.

7. In the result, the Writ Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To,

1.The Director of School Education, Chennai-6.

2.The Chief Educational Officer, Tuticorin.

3.The District Educational Officer,
Kovilpatti, Tuticorin District.

+1CC to Mr.V.Panneer Selvam, Advocate Sr.No.1861

+1CC to Spl.Government Pleader Sr.No.1980

GJM/CM/MSA/7.2.17-3p-6c