



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

WP (MD) Nos.16767 and 16768 of 2017

J.Joseph Raj
S.Nausath

... Petitioner in W.P.(MD)No.16767/2017
... Petitioner in W.P.(MD)No.16768/2017

vs.

1.The Secretary to Government,
Education Department,
State of Tamil Nadu,
St. Fort George,
Chennai - 9.

2.The Director,
Teacher's Education Research and Training,
Chennai.

3.The Principal,
District Teachers Education and Training Institute,
Munanjipatti,
Tirunelveli District.

... Respondents in both the W.Ps.

Prayer in W.P.(MD)No.16767 of 2017:

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings of the third respondent in Na.Ka.No.338/E/2017, dated 10.08.2017 and quash the same and further direct the third respondent to approve the transfer-cum-promotion proposal, dated 04.10.2016, send by the Management.

Prayer in W.P.(MD)No.16768 of 2017:

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings of the third respondent in Na.Ka.No.338/E/2017, dated 10.08.2017 and quash the same and further direct the respondents to approve the appointment of the petitioner as Junior Assistant at Sarah Tucker Teacher Training Institute and disburse all service and monetary benefits from 20.10.2016.

For Petitioners : Mr.S.Chellapandian
(in both the W.Ps.)



For Respondents : Mr.K.Guru
(in both the W.Ps.) Additional Government Pleader

COMMON ORDER

W.P.(MD)No.16767 of 2017 has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the third respondent in Na.Ka.No.338/E/2017, dated 10.08.2017, to quash same and also a consequential direction to the third respondent to approve transfer-cum-promotion proposal, dated 04.10.2016, send by the Management.

2.W.P.(MD)No.16768 of 2017 has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the third respondent in Na.Ka.No.338/E/2017, dated 10.08.2017, to quash same and also a consequential direction to the respondents to approve the appointment of the petitioner as Junior Assistant at Sarah Tucker Teacher Training Institute and disburse all service and monetary benefits from 20.10.2016.

3.The learned counsel appearing for the petitioners attacking the said orders, which were passed on the ground of non-application of mind submitted that in view of the order passed by this Court, dated 15.03.2016, in the case of **Deva Asir Vs. Secretary to Government, School Education Department, Chennai and others** reported in **2016-III-LLJ-49 [Mad]** [W.P.(MD)No.11481 of 2008 etc. batch] and also a judgment of this Court, dated 12.06.2017, in the case of **The Secretary to Government, Education Department, Chennai and others Vs. G.Mahendran David and another [W.A.(MD)No.390 of 2017 etc. batch]**, the same are liable to be set aside.

4.I have heard Mr.K.Guru, learned Additional Government Pleader appearing for the respondents.

5.The submission made by the learned counsel appearing for the petitioners that the impugned orders have been passed by the Principal, District Teachers Education and Training Institute, Munanjipatti, without application of mind, deserves acceptance, since this Court has already quashed Government Letter No.8884/D1/2011-2, dated 09.07.2012, in W.P.(MD)No.11481 of 2008 etc. batch reported in **2016-III-LLJ-49 [Mad]** [supra], and the relevant portion of the said order is given as under:-

"38.In the result, for the details reasons mentioned above,

(i) All these writ petitions are allowed.

(ii) Impugned G.Os., namely, G.O.Ms.No.115, School Education Department, dated 30.05.2007 and G.O.Ms.No.203, School Education Department, dated 23.07.2010 and Government Letter No.8884/D1/2011-2, dated 09.07.2012, are quashed.

(iii) The impugned orders of the DEOs/DEEOs refusing to



approve of the appointments of various non-teaching posts in these writ petitions are set aside and the official respondents are directed to approve of those appointments of the non-teaching staff in the Private Aided Schools concerned in these writ petitions and to sanction grant.

WEB COPY

(iv) Wherever writ of Mandamus is sought for, a direction is issued to the respondents to approve of the appointments of the non-teaching staff in the Private Aided Schools and to sanction grant.

(v) The official respondents are directed to comply with the aforesaid directions within a period of six weeks from the date of receipt of a copy of this order.'

Moreover, a Division Bench of this Court in W.A.(MD)No.390 of 2017 etc. batch, dated 12.06.2017 [supra], has held that G.O.Ms.No.40, School Education Department, dated 14.03.2013, is unenforceable, therefore, the sanctioned post can be permitted to be filled up. The relevant portions of the said judgment is extracted as under:

'6. Consequently, when we perused the Government Order in G.O.Ms.No.40, School Education (U2) Department, dated 14.03.2013, we find that it pertains to Teacher Education Institutions. The learned Special Government pleader would strenuously contend that this is the Government Order which has been passed specifically for Teacher Education Institutions and therefore, the decision rendered by the Division Bench in the case of A.Maria Selvam (supra), cannot be made applicable. However, on a perusal of the said Government order it is seen that it reiterates the proposal made by the Government in respect of schools in G.O.Ms.No.203 dated 23.07.2010. The said Government order has been held to be un-enforceable and the sanctioned posts have been permitted to be filled up.

7. Therefore, the decision rendered by the Division Bench in the case of A.Maria Selvam (supra), would equally apply to Teacher Education Institutions as all the educational institutions fall under the very same Education Department and all the institutions were commonly imposed with ban of recruitment and similar directions issued to the schools to fill up the relevant posts by out-sourcing was held to be untenable. And in such circumstances, merely because the respondents are Teacher Education Institutions, or persons employed by them, there can be no distinction between both set of employees. Therefore, the present issue is clearly covered by the decision of the Division Bench in the case of A.Maria Selvam (supra), and it was dismissed.'

6. In the light of the above, these writ petitions are allowed and the impugned orders are set aside. Consequently, the respondents are hereby directed to approve the appointment of the



petitioners from date of their appointment, within a period of eight weeks from the date of receipt of a copy of this order and disburse all service and monetary benefits to them from the said date. No costs.

WEB COPY

/True Copy/

Sd/-
Assistant Registrar(RTI)

Sub Assistant Registrar

To

1.The Secretary to Government,
Education Department,
State of Tamil Nadu,
St. Fort George,
Chennai - 9.

2.The Director,
Teacher's Education Research and Training,
Chennai.

3.The Principal,
District Teachers Education and Training Institute,
Munanjipatti,
Tirunelveli District.

+2cc to Mr.S.CHELLAPANDIAN Advocate in SR. No. 77079
+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 77319,77317
SMN2
JS/SV.MMS/SAR.1/21.09.2017/3P-7C

WP(MD)Nos.16767 and 16768 of 2017
06.09.2017