



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2017

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD).No.2943 of 2017

and

WMP(MD) No. 2381 of 2017

A.Jesus Mary Jennifer

...Petitioner

Vs.

1.The Director of Elementary Educational Officer,
College Road, Chennai - 600 006.

2.The District Elementary Educational Officer,
Thoothukudi, Thoothukudi District.

3.The Assistant Elementary Educational Officer,
Ottappidaram,
Thoothukudi District.

4.The Correspondent,
St.Micheal's Primary School,
Tharavaikulam,
Thoothukudi District

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records made into the impugned order passed by the third respondent vide proceedings in O.Mu.No.2016/A2/2016 dated 31.01.2017 and quash the same and direct the third respondent to approve the appointment of the petitioner as Secondary Grade Assistant in the fourth respondent school with effect from the date of 02.06.2016 with all consequential benefits.

For Petitioner : Mr.T.Antony Arul Raj

For Respondents : Mr. J.Gunaseelan Muthiah,
Government Advocate.

O R D E R

<https://hcservices.ecourts.gov.in/hcservices/> petition has been filed by the petitioner challenging the impugned order passed by the third respondent vide proceedings in O.Mu.No.2016/A2/2016 dated 31.01.2017 and to quash



the same and direct the third respondent to approve the appointment of the petitioner as Secondary Grade Assistant in the fourth respondent school with effect from the date of 02.06.2016 with all consequential benefits.

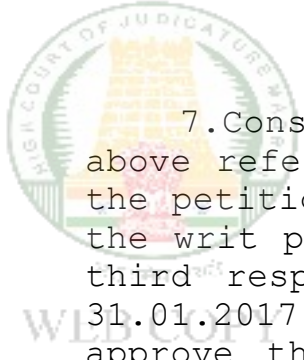
2. Heard Mr. T. Antony Arul Raj, learned Counsel appearing for the petitioner and Mr. J. Gunaseelan Muthiah, learned Government Advocate appearing for the respondents. By consent of Counsels for both sides, the main writ petition itself taken up for disposal.

3. The petitioner was appointed in the 4th respondent school as a Secondary Grade Assistant Teacher in the year 2016. The appointment was in the place of another teacher, who was promoted earlier as Head Mistress of the 4th respondent school. Since, the petitioner possessed the qualification of D.T.Ed., and completed T.E.T. examination, the petitioner was preferred to the post of Secondary Grade Assistant Teacher, by order dated 30.05.2016.

4. When the 4th respondent submitted the proposal to the second respondent through the 3rd respondent for the approval of petitioner's appointment, as Secondary Grade teacher, the 3rd respondent vide the impugned proceedings dated 31.01.2017, returned the proposal stating that there are surplus teachers available in the schools of R.C. Diocese and that therefore, the appointment cannot be approved.

5. Challenging the proceedings dated 31.01.2017, the present Writ Petition has been filed by the petitioner. This court has allowed similar Writ Petitions filed either by the management or by the teacher, where approval for appointment was rejected on the ground that there are surplus teachers available in other schools run by the same management. Though it is open to the department to take action against the schools, if they have surplus teachers for deployment, the same cannot be a reason to reject the approval of appointment when the appointment is against the sanctioned post and there is vacancy. Learned Counsel for the petitioner relied upon the judgment dated 04.07.2014 in **W.P.5870 of 2009** in the case of **K. Jesi Prema Latha Vs The District Elementary Educational Officer, Tirunelveli & 2 others** and another judgment in the case of **T. Antony Jeyanthi Vs. The Director, Directorate of School Education and others** in **W.P.No.202 of 2014** dated 09.02.2015.

6. Since, the matter is already settled by several decisions of this court, this court is not inclined to take any deviation. The petitioner's case is also supported by the judgment of this court by the Division Bench in the case of **The State of Tamil Nadu and others Vs. The Correspondent, R.C. Middle School in W.A. (MD) No. 688 of 2015**.



7. Considering the law laid down by this Court in the judgment above referred to, this Court find merit in the writ petition and the petitioner is entitled to the relief sought for. Accordingly, the writ petition is allowed and the impugned order passed by the third respondent vide proceedings in O.Mu.No.2016/A2/2016 dated 31.01.2017 is set aside. The second respondent is directed to approve the appointment of the petitioner with effect from the date of appointment within a period of two weeks from the date of receipt of a copy of this order and the petitioner is entitled to get all the monitory benefits and service benefits in accordance with law.

8. Accordingly, the Writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1. The Director of Elementary Educational Officer,
College Road, Chennai - 600 006.
2. The District Elementary Educational Officer,
Thoothukudi, Thoothukudi District.
3. The Assistant Elementary Educational Officer,
Ottappidaram,
Thoothukudi District.

+1 CC TO SPECIAL GOVERNMENT PLEADER SR NO.18166

KM/MR
MAS/RR/SAR2:17.04.2017:3P-5C

ORDER MADE IN
W.P. (MD) .No. 2943 of 2017
24.03.2017