

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.A. No. 1546 of 2012
and
M.P.No.1 of 2012

1. The Director of School Education,
Primary Schools,
College Road, Chennai 600 006.
2. The Chief Educational Officer,
Nagercoil,
Kanyakumari District.
3. The District Elementary
Educational Officer,
Nagercoil,
Kanyakumari District.
4. The Assistant Educational Officer,
Thiruvattar,
Kanyakumari District .. Appellants

1. R. Vimala
2. The Correspondent,
St. Peters R.C. Primary School,
Chekkal, Thirparappu Post,
Kanyakumari District. .. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order W.P. No. 4310 of 2003 dated 09.07.2010 on the file of this Court.

Prayer in W.P.No.4310 of 2003:-

This Writ Petition is filed under Article 226 of the constitution of India, to issue a Writ of Mandamus to direct the respondents to approve the petitioner's appointment as a

Secondary Grade Teacher in the 5th respondent's school from the date of her appointment.

For Appellants : Mr.P. Raja
Government Advocate

For Respondents : M/s. Aparna Nandhakumar for R1
M/s. H. Mary Sowmi Rexi for
M/s Isacc Chambers for R2

J U D G M E N T
(Delivered by M.M.Sundresh,J.)

The private respondent was appointed as Secondary Grade Teacher on 02.06.1986. Subsequently, the first respondent was accommodated in one of the sanctioned post by the management and the proposal was sent for approval to the Government. However, the department declined to approve the appointment of the fifth respondent stating that she is not eligible as per G.O.Ms.No.559, Education Department, dated 11.7.1995, inasmuch as she is a Tamil Pandit and she has been appointed in a Secondary Grade vacancy. The aforesaid government order was put to challenge before a Division Bench. Pursuant to the order of the Division Bench, the Government issued G.O.Ms.No.155, School Education Department, dated 3.10.2002, and directed that such persons appointed be provided Child Psychology Training for a period of one month. However, the private respondent was not sent to training on the premise that the post became surplus.

2. Taking into consideration all the earlier orders passed by this Court, the learned Single Judge allowed the writ petition giving liberty to the appellants to deploy the private respondent to a needy school, if the same stand of teachers being in surplus continues. This is put into challenge before us.

3. Learned Government pleader submitted that inasmuch as the post of Secondary Grade Teacher has become surplus, there is no question of considering the private respondent and that is the reason why she was not sent for the training.

4. We are not inclined to accept the said submission. Admittedly, at the time when the post was sanctioned, there was sufficient student strength in the school and there was also no surplus. As rightly observed by the learned Single Judge, in the event of the post becoming surplus subsequently, the teacher will have to be deployed to some other institutions. This cannot be a ground to say that she is not entitled to be

appointed, especially when she was already appointed. The case of the first respondent comes within the purview of the order of the Division Bench. Thus, we do not find any merit in this appeal. However, inasmuch as the private respondent has not been sent for training, the appellants will have to take appropriate steps to send her for the training and thereafter the appointment will have to be approved as indicated by the learned Single Judge. Needless to state that the other directions of the learned Single Judge will also have to be complied with by the appellants.

This writ appeal stands disposed of with the above directions. No costs. Consequently, M.P.No.1 of 2012 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssm

To

1. The Director of School Education,
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4. The Assistant Educational Officer,
Thiruvattar,
Kanyakumari District.

+1 cc to M/s.Aparna Nandhakumar, Advocate Sr.No.86935
+1 cc to M/s.Isaac Chambers, Advocate Sr.No.87179
+1 cc to The Government Pleader, Sr.No.87490

W.A. No. 1546 of 2012

VSN-II (CO)
CSL/11.01.2019