

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.341 of 2018 and
WMP NOS. 401, 402 AND 404 OF 2018

Mrs.C.Gnanaselvi

.. Petitioner

-vs-

1. The Government of Tamil Nadu
rep.by the Additional Chief Secretary
Department of School Education (C2)
Fort St.George, Chennai 600 009
2. The Director of Elementary Education
DPI Campus, College Road
Chennai 600 006
3. The District Elementary Educational Officer
Office of the District Elementary Educational Officer
Coimbatore-1
4. Assistant Elementary Educational Officer
Office of the Assistant Elementary Educational Officer
Coimbatore-1
5. The Correspondent
ICC Middle School, Big Bazaar Street
Coimbatore 641 001 .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned G.O.(Ms.) No.181, School Education (C2) Department, dated 15.11.2011 on the file of the first respondent and the consequential proceedings dated 22.03.2017 in O.Mu.No.6652/A4/2016 on the file of the third respondent and quash the same in respect of the petitioner based on the Division Bench orders dated 24.08.2016 and made in W.A.No.213 of 2016, directing the respondents to approve the appointment of the petitoiner Mrs.Gnanaselvi working as B.T.Assistant (Tamil) in I.C.C.Middle School, Big Bazaar Street, Coimbatore 641 001 w.e.f. 10.06.2013, with all service benefits.

For Petitioner
For Respondents

:: Ms.A.Arul Mary
:: Mr.P.Raja
Government Advocate for R1 to 4

ORDER

This writ petition is directed against the impugned G.O.Ms.No.181, School Education (C2) Department dated 15.11.2011 issued by the Additional Chief Secretary to the Government of Tamil Nadu directing the teachers working in the aided, unaided and minority educational institutions to pass the Teacher Eligibility Test to become eligible for appointment to the post of teachers in all Middle, High/Higher Secondary schools and the consequential proceedings dated 22.3.2017 passed in O.Mu.No.6652/A4/2016 by the District Elementary Educational Officer, Coimbatore, the third respondent herein, whereby the proposal sent by the fifth respondent school, namely, I.C.C. Middle School, Big Bazaar Street, Coimbatore, which is a minority educational institution receiving grant-in-aid from the State Government, seeking approval of the appointment of the petitioner to the post of B.T.Assistant (Tamil), was rejected citing not only a peculiar reason, but also against the settled legal position that a teacher working in the minority educational institution should also pass the Teacher Eligibility Test, as per G.O.Ms.No.181 dated 15.11.2011.

2. Learned counsel for the petitioner, assailing the impugned order, emphatically submitted that when the issue that the teachers appointed or going to be appointed in the minority educational institutions are not required to pass the Teacher Eligibility Test, has been settled once and for all by various orders including the judgment of the Division Bench of this Court in Secretary to Government, Education Department, Chennai and others v. S.Jeyalakshmi and another, 2016 (7) MLJ 155, the second respondent and his subordinates, who were also parties to the aforementioned judgment, further bound by the same, mindless of the settled legal position, had erroneously rejected the proposal. Referring to paragraph-59 of the aforesaid judgment, wherein it is held that the G.O.Ms.No.181 dated 15.11.2011, which was issued pursuant to the direction of the NCTE, cannot be made applicable to the minority institutions, pleaded that when the aforementioned G.O.Ms.No.181 dated 15.11.2011 has been made inapplicable to the teachers working in minority educational institutions, rejecting the proposal made by the fifth respondent school seeking approval of the appointment of the petitioner to the post of B.T.Assistant (Tamil) in their school is wholly unjustified and unlawful, she pleaded.

3. It is at this stage, the learned Government Advocate, taking notice on behalf of the respondents 1 to 4, pleaded that the impugned order has been inadvertently passed, therefore, requested this Court to dispose of the writ petition, in terms of the ratio laid down by the Division Bench mentioned supra.

4. In the case on hand, the petitioner has been appointed as B.T.Assistant (Tamil) in a sanctioned post, which fell vacant on account of the retirement of one Mrs.Mary Stellabai on 31.5.2013, and she also joined duty with effect from 10.6.2013. When the proposal seeking approval of her appointment was sent by the fifth respondent school, the third respondent has erroneously rejected the same. As mentioned above, when the only issue raised by the petitioner whether the teachers employed or going to be appointed in the minority educational institutions are required to pass the Teacher Eligibility Test, has been answered by this Court in umpteen judgments, more particularly, in Secretary to Government, Education Department, Chennai and others v. S.Jeyalakshmi and another, 2016 (7) MLJ 155 holding that the G.O.Ms.No.181 dated 15.11.2011 cannot be made applicable to the teachers working in minority institutions, the impugned order passed by the third respondent, rejecting the proposal of the fifth respondent for granting approval of the appointment of the petitioner to the post of B.T.Assistant (Tamil) in the fifth respondent school, which is a minority educational institution, being wholly unsustainable, is liable to be set aside. Accordingly, for the reasons mentioned above, the impugned order is set aside and the respondents 1 to 4 are directed to approve the appointment of the petitioner in the post of B.T.Assistant (Tamil) in the fifth respondent school with effect from the date of her appointment and release the salary including arrears within a period of four weeks from the date of receipt of a copy of this order.

5. Since the District Elementary Educational Officer, Coimbatore, the third respondent herein has carelessly passed the impugned order compelling the petitioner to approach this Court seeking remedy under Article 226 causing wastage of money and time, this Court is inclined to impose costs of Rs.10,000/- (Rupees ten thousand only), which shall be paid by the third respondent, out of his personal money, to the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras, within a period of four weeks from the date of receipt of a copy of this order. With this direction, the writ petition stands allowed. Consequently, W.M.P.Nos.401, 402 & 404 of 2018 are closed.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

ss

To

1. The Additional Chief Secretary to Government
Department of School Education (C2)
Fort St.George
Chennai 600 009
2. The Director of Elementary Education
DPI Campus, College Road
Chennai 600 006
3. The District Elementary Educational Officer
Office of the District Elementary Educational Officer
Coimbatore-1
4. The Assistant Elementary Educational Officer
Office of the Assistant Elementary Educational Officer
Coimbatore-1

Copy TO

The Assistant Registrar,
Tamilnadu Mediation and Conciliation Centre,
High court, Madras.

+3cc to Mr.A.Arul Mery, Advocate SR.No.2603
+1cc to Government Pleader SR.No.2975

W.P.No.341 of 2018

VBA (CO)
GN(17/04/2018)

सत्यमेव जयते

WEB COPY