



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P(MD)No.7072 of 2018

and

W.M.P. (MD) No.6764 of 2018

K.Murugesan

... Petitioner

Vs.

1. The State of Tamil Nadu,
rep. By its Secretary to Government,
Education Department,
Secretariat, Chennai.
2. The Director of Elementary Education,
College Road, Chennai - 6.
3. The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.
4. The Assistant Elementary Educational Officer,
Keezhapavoor Range,
Tirunelveli District.
5. The Hindu Middle School,
Sivakami Puram,
Keezhapavoor Range,
Tirunelveli District.
Represented by its Secretary cum
Correspondent S. Sekar

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent pertaining to G.O.Ms.No.155, School Education (D2) Department dated 03.10.2002 and to quash the same insofar as the clause (III) and (viii) is concern and the consequential order passed by the 3rd respondent pertaining to its order bearing O.Mu.No.808/A3/2014 dated 15.12.2014 and to quash the same and consequently direct the respondents 1 to 4 to approve the appointment of the petitioner as Secondary Grade Teacher in the 5th respondent school with effect from 09.09.1997 and to sanction and pay all monetary benefits from 09.09.1997 to 02.06.2003.



For Petitioner : Mr.S.C.Herold Singh
For Respondents : Mrs.S.Srimathy, Spl. G.P.

ORDER

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The prayer sought for in this writ petition is for a Writ of Certiorarified Mandamus, calling for the records on the file of the 1st respondent pertaining to G.O.Ms.No.155, School Education (D2) Department dated 03.10.2002 and to quash the same insofar as the clause (III) and (viii) is concern and the consequential order passed by the 3rd respondent pertaining to its order bearing O.Mu.No.808/A3/2014 dated 15.12.2014 and to quash the same and consequently direct the respondents 1 to 4 to approve the appointment of the petitioner as Secondary Grade Teacher in the 5th respondent school with effect from 09.09.1997 and to sanction and pay all monetary benefits from 09.09.1997 to 02.06.2003.

2.Heard Mr.S.C.Herold Singh, learned counsel appearing for the petitioner and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents.

3.The learned counsel for the petitioner submits that the issue raised in this writ petition is covered by the decision of this Court in a number of orders and according to him, one such order was passed by this Court in W.P.(MD) No.19821 of 2003 etc. batch by order dated 22.01.2013 in the matter of ***S.Singarayar Vs. State of Tamil Nadu, rep. by Secretary to Government, Educational Department, Fort St. George, Chennai - 9.***

4.Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents would fairly submit that the issue raised in this writ petition since pertaining to G.O.Ms.No.155, School Education (D2) Department dated 03.10.2002, especially clause III and VIII thereon, a set of direction given in the said judgment stated supra at para 29 can be applied to this case also.

5.In the said judgment cited above, this Court has given the following direction at para 29, which reads thus:

"29. For the aforesaid reasons, we allow the various writ petitions by giving the following directions:-

- (i)The State of Tamil Nadu and the other authorities concerned shall consider the application of each of the Institution for grant-in-aid within a period of 16 weeks without being influenced by the fact that such institutions had been established without obtaining any prior permission and also by the fact that such institutions had given letter in writing indicating that after obtaining recognition they will not claim any grant-in-aid.

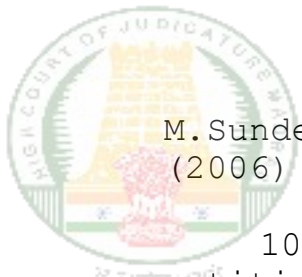


However, while considering such application, the relevant facts such as the existence of necessary infrastructure, teacher-student ratio and the eligibility of the concerned teacher to hold the post should be considered.

- WEB COPY (ii) If it is found that any particular institution is entitled to receive any aid, decision should be taken with regard to eligibility within a period of four months and should be communicated to the concerned institution.
- (iii) If any institution is found eligible to receive such aid, necessary payment shall be made within a further period of four months from the date of such sanction.
- (iv) The continued right of any institution to receive any aid is to be considered keeping in view the relevant G.O., applicable from time to time.
- (v) Similarly, in respect of minority institutions, which were receiving aid in respect of some of the posts and were seeking for approval and payment of aid for any additional post, such question is required to be considered within a period of four months by keeping in view the teacher-pupil ratio applicable during any particular period.
- (vi) If, on the other hand, any school or any post is found ineligible for sanction of grant, such decision should be communicated to the concerned institution by giving brief reasons within a period of three weeks from the date of order of refusal."

9. In an identical circumstances a writ petition came for consideration before the Madurai Bench of this Court in W.P.No.3206/2007 and this Court by order dated 13.12.2007, considering the facts as well as the law laid down allowed the writ petition by following above referred decisions and directed the approval of the appointment of the petitioner therein making it clear if the post in which, she was found working is found surplus, it is open to the department to deploy, the petitioner therein to a needy school in accordance with G.O.Ms.No.525 dated 29.12.1997 and the arrears of salary was directed to be disbursed. Against the said order, the Department filed W.A.(MD). No.617/2008 before the Hon'ble Division Bench of the Madurai Bench and the Hon'ble Division Bench by Judgment dated 25.09.2008, dismissed the writ appeal and held that the issue raised is already covered by the

https://hcservices.hcservices.in/hcservices/ reported in The State of Tamilnadu and Ors Vs. Pallivasal Primary School 2004 (2) LW 591 and



M.Sundersingh Vs. Government of Tamil Nadu and others
(2006) 2 M.L.J. 784.

10. Therefore, for all the above reasons, the petitioner is entitled to succeed and accordingly, the writ petition is allowed as prayed for and the respondents are directed to approve the petitioner's appointment and pay the arrears of salary within a period of eight weeks from the date of receipt a copy of this order. No costs.

6. In view of the said position that the issue raised in this writ petition is covered by the said decision and also there have been a number of decisions of this Court as has been pointed by the learned counsel for the petitioner and endorsed by the learned Special Government Pleader appearing for the respondents, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu,
Education Department,
Secretariat, Chennai.
2. The Director of Elementary Education,
College Road, Chennai - 6.
3. The District Elementary Educational Officer,
Tirunelveli, Tirunelveli District.
4. The Assistant Elementary Educational Officer,
Keezhapavoor Range,
Tirunelveli District.

+ 1 cc TO Mr.S.C.Herold Singh , Advocate in SR No. 59181
+ 1 cc TO The Special Government Pleader in SR No. 59668,59448

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AE/RSK/SAR1/04.05.2018/4P/7C

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and**

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