



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2018

CORAM:

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.7940 of 2018

and

W.M.P (MD) Nos.7516 & 7517 of 2018

D.O.Sanuja

`...Petitioner

Vs.

- 1) The State of Tamil Nadu,
Rep., by its Secretary to Government,
School Education Department,
Secretariat, Chennai - 600 009
- 2) The Director of School Education,
College Road, Chennai.
- 3) The Chief Educational Officer,
Nagercoil,
Kanyakumari District.
- 4) The District Educational Officer,
Kuzhithurai,
Kanyakumari District.
- 5) Purushothaman Pillai Memorial Higher Secondary School,
Rep., by its Correspondent,
Anducode,
Anducode Post,
Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the 4th respondent pertaining to its proceedings bearing Oo.Moo.No.6265/A2/2017 dated 28.10.2017 and to quash the same and consequently direct the 4th respondent to approve the appointment of the petitioner as B.T.Assistant (History) with effect from the date of her appointment that is on 11.01.2017 and to grant all service and monitory benefits without insisting a pass in TET within a time frame that may be stipulated by this Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.D.Muruganantham,
Additional Government Pleader

**ORDER**

The prayer sought for in this Writ Petition is to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the 4th respondent, pertaining to its proceedings bearing Oo.Moo.No.6265/A2/2017 dated 28.10.2017 and to quash the same and consequently, direct the 4th respondent to approve the appointment of the petitioner as B.T. Assistant (History) with effect from the date of her appointment, that is on 11.01.2017 and to grant all service and monitory benefits without insisting a pass in Teacher's Eligibility Test (TET) within a time frame that may be stipulated by this Court.

2. Heard Mr.S.C.Herold Singh, learned counsel for the petitioner and Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents.

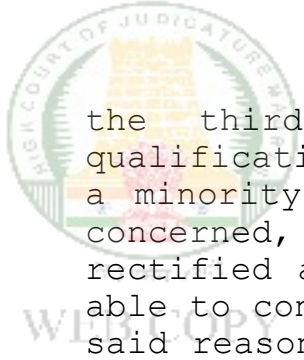
3. The petitioner was appointed as B.T. Assistant (History) in the sanctioned post at the fifth respondent school on 11.01.2017 and the said appointment proposal with the relevant documents, have been sent by the fifth respondent School to the fourth respondent. The same was returned/rejected by the impugned order of the fourth respondent dated 28.10.2017. Challenging the same, the present writ petition has been filed.

4. The learned counsel appearing for the petitioner would state that, four reasons have been given in the said impugned order, out of which, the third reason is the requirement of Teacher's Eligibility Test (TET) qualification of the petitioner and in this regard, he would submit that, since the fifth respondent School is a minority school, as per the law declared in this regard, the petitioner need not have the TET qualification to be appointed in the minority school of the fifth respondent.

5. With regard to the first reason of not annexing 2016-17 staff allotment order, the learned counsel would submit that, the said order had also been annexed along with the proposals and copy of the same has also been produced in the typed set of papers. With regard to other two reasons are concerned, though it is the submission made by the learned counsel for the petitioner that those mistakes are very minor in nature and they can be rectified in no minutes, the fact remains that, those minor defects are yet to be rectified.

6. In this regard, the learned counsel appearing for the petitioner would submit that, after having rectified the minor mistakes, the proposal once again would be submitted to the fourth respondent for necessary approval and in that case, it may be considered, on merits.

7. I have heard Mr.D.Muruganantham, learned Additional Government Pleader who would submit that, out of the four reasons,



the third reason may not be justifiable because the TET qualification is not required for the petitioner to be appointed in a minority school. However, in so far as other three reasons are concerned, the fact remains that, those mistakes are not being rectified and that is the reason why the fourth respondent was not able to consider the proposal, accordingly, it was returned with the said reason. Therefore, there is every justification on the part of the fourth respondent to pass the impugned order and hence, it requires no interference.

8. I have heard the counsel appearing on either sides. As has been pointed out by the learned counsel appearing for the petitioner, which was accepted by the learned Additional Government Pleader, the requirement of TET is no more required for the petitioner, since the appointment is made only at the fifth respondent School, which is admittedly a minority institution.

9. With regard to the other three reasons, though it is maintained by the learned counsel for the petitioner that, the fifth respondent had complied with the same and resubmitted the proposal, since the fifth respondent is not represented by counsel, at this juncture, that issue cannot be resolved herein. Therefore, the stand taken in this regard by the fourth respondent as projected by the learned Additional Government Pleader can be taken into account.

10. In that view of the matter, this Writ Petition is disposed of with the following directions:-

"that the fifth respondent institution is directed to resubmit the proposal after rectifying the mistakes mentioned in the impugned order dated 28.10.2017, except the third reason of certificate of TET qualification of the petitioner. Such exercise shall be undertaken by the fifth respondent, within a period of three weeks from the date of receipt of a copy of this order."

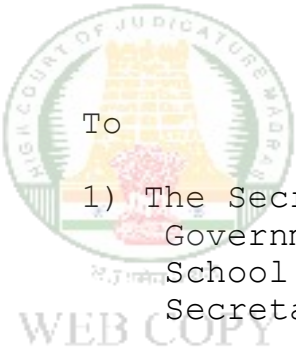
11. On receipt of such revised proposal, after having rectified the mistakes noted in the impugned order dated 28.10.2017, the same shall be considered by the fourth respondent and orders shall be passed thereon merits and in accordance with law within a period of six weeks thereafter.

12. However, there shall be no order as to costs. Consequently, connected miscellaneous petition W.M.P(MD) Nos.7516 & 7517 of 2018 are closed.

Sd/-

Assistant Registrar(AS)

/True copy/



To

- 1) The Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Secretariat, Chennai - 600 009
- 2) The Director of School Education,
College Road, Chennai.
- 3) The Chief Educational Officer,
Nagercoil, Kanyakumari District.
- 4) The District Educational Officer,
Kuzhithurai, Kanyakumari District.

+1cc to Mr.S.C.Herold Singh, Advocate, SR.No.62283.

+1cc to Special Government Pleader, SR.No.62482.

Order in
W.P.(MD)No.7940 of 2018
19.04.2018

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RAM/SV MMS/SAR 3/11.06.2018/4P/7C