

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.10.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No. 15468 of 2019

&

W.M.P.No.15407 pf 2019

R.Kalaichelvi

..Petitioner

vs

1.The Director of School Education,
DPI Complex, College Road,
Chennai 600 006.

2.Chief Education Officer,
Cuddalore District,

3.The Secretary,
Thiruvallur Higher Secondary School,
Orathur,
Cuddalore District 608 201.

4.The Secretary,
Chandra High School,
Sethiathope,
Cuddalore District. 608 201.

5.Mr.S.Ponmudi,
The Secretary,
Thiruvallur Higher Secondary School,
Orathur,
Cuddalore District 608 201.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent herein proceedings Na.Ka.No.11959/E-2/2018 dated 1/03/2019 and the order passed by the third respondent in his proceedings No.Nil dated 30/03/2019 and quash the same and consequentially direct the respondents herein to reinstate the petitioner to the third respondent School in the Vacancy of BT Assistant (Tamil) that arose on 13/05/2019 without restoring to fresh appointment.

For Petitioner : M/s.G.Bala and Daisy

For Respondents 1 & 2 : Ms.P.Kavitha
Government Advocate

For Respondents 3 to 5 : Mr.S.N.Ravichandran

O R D E R

The prayer sought for in this Writ Petition is to call for the records relating to the impugned order passed by the 2nd respondent herein proceedings Na.Ka.No.11959/E-2/2018 dated 1/03/2019 and the order passed by the 3rd respondent in his proceedings No.Nil dated 30/03/2019 and quash the same and consequentially direct the respondents herein to reinstate the petitioner to the 3rd respondent School in the Vacancy of BT Assistant (Tamil) that arose on 13/05/2019 without restoring to fresh appointment.

2. The case of the petitioner is that she was working as BT Assistant in the 3rd respondent School and was sent on deputation to the Government High School, North Thittai as her post was found to be surplus. Thereafter, one Mr.Shanmugam, BT Assistant (Tamil), who was serving in the 3rd respondent School attained Superannuation on 13.05.2019 and was relieved from the post on 31.05.2019. It is the further case of the petitioner that instead of posting her as a BT Assistant (Tamil), the 3rd respondent was resorting to make fresh appointment for the said post. The petitioner preferred a representation to the respondents, however, till date no orders have been passed. Hence, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that though the petitioner was deputed earlier, now in the very same post in the 3rd respondent School, one Mr.Shanmugam retired from the service and the said post fell vacant. Hence, the learned counsel prayed this Court to pass appropriate orders for repatriating the petitioner to the 3rd respondent School.

4. Mr.S.N.Ravichandran, learned counsel appearing for the 3rd respondent would submit that the said Shanmugam, BT Assistant (Tamil) itself was holding the surplus post and hence the 3rd respondent is not in a position to induct the petitioner to the said post. Therefore, he sought for the dismissal of the Writ Petition.

5. Heard the learned counsel and perused the papers.

6. It is seen that the petitioner was deputed from the 3rd

respondent School to the Government High School, North Thittai as her post was found to be surplus. Thereafter, the post of BT Assistant in the 3rd respondent School fell vacant due to the retirement of one Shanmugam and the petitioner made representation to appoint her in the 3rd respondent School. It is also seen that due to shortage of Students in the 3rd respondent School, the strength of the Staffs were reduced and the vacant post itself become surplus.

7. Considering the facts and circumstances of the case that the said vacant post itself becomes surplus, the 3rd respondent cannot fill up the surplus post and the petitioner cannot be inducted in the 3rd respondent School. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

kan

To

1.The Director of School Education,
DPI Complex, College Road,
Chennai 600 006.

2.The Chief Education Officer,
Cuddalore District,

3.The Secretary,
Thiruvallur Higher Secondary School,
Orathur, Cuddalore District 608 201.

4.The Secretary,
Chandra High School,
Sethiathope,
Cuddalore District. 608 201.

+1cc to Mr.G.Bala & Daisy, Advocate, S.R.No. 86460
+1cc to Mr.S.N.Ravichandran, Advocate, S.R.No. 86961
+1cc to the Government Pleader, S.R.No. 87334

W.P.No. 15468 of 2019 &
W.M.P.No.15407 pf 2019

NRL(CO)
GN(20/11/2019)