

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2019

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THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.5865 of 2014
and M.P.No.1 of 2014

M.Eliza Venila ... Petitioner

Vs.

- 1 The State of Tamil Nadu
Rep. by Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009.
- 2 The Director of School Education,
DPI Campus, College Road,
Chennai 600 006.
- 3 The District Educational Officer,
Thiruvallur District,
Thiruvallur.
- 4 The Correspondent,
Dasar Higher Secondary School,
Dasarpuram, Thiruninravur R.S.,
Thiruninravur 602 024,
Thiruvallur District. ... Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records relating to the first respondent in letter No.34246/D2/2010-10, dated 24.10.2011 and the subsequent proceedings issued by the first respondent in Letter No.26399/D2/2012-1, dated 13.8.2012 and to quash the same and consequently, direct the respondents 1 to 4 to approve the appointment of the petitioner in the post of BT Assistant in the fourth respondent school from the date of initial appointment on 13.6.2006 with all consequential and other attendant benefits including arrears of salary with interest and including seniority, within a time frame to be fixed by this Court.

For Petitioner : Mr.B.Thangavel
For Respondents 1 to 3 : Mr.K.Karthikeyan, G.A.(Edn.)
For Respondent No.4 : Dr.P.Vasudevan

O R D E R

According to the petitioner, the petitioner was qualified with XI Std. in April 1984, thereafter, completed Preparatory Course and passed entrance test and got admission to B.A. (History) course in the Institute of Distance Education, University of Madras and the petitioner also qualified with M.A. (History) through correspondence and further qualified with B.Ed. in regular course. The petitioner was appointed as BT Assistant on 13.6.2006 in the fourth respondent School in regular sanctioned post. Subsequent to the appointment, proposal was forwarded to the department seeking approval of appointment of the petitioner on 27.7.2006 and the same was rejected by the first respondent vide impugned order, dated 24.10.2011, by relying upon the G.O.Ms.No.107, dated 18.8.2009. Challenging the said order, the petitioner has filed the present writ petition before this Court to quash the said order with consequential directions to the respondents.

2 The third respondent has filed counter affidavit by stating that the petitioner is not entitled for approval for appointment to the post of B.T. Assistant as per G.O.Ms.No.107, Personnel and Administrative Reforms (M) Department, dated 12.8.2009 wherein it is stipulated that only persons who passed X, XII in regular stream and secured degree is eligible for appointment in public service.

3. Counter affidavit also filed on behalf of the fourth respondent wherein it is stated that the letter, dated 29.10.2010 issued by the third respondent, the petitioner was relieved from duty on 4.11.2010. Since the post cannot be kept vacant for a long time, the fourth respondent appointed Mrs.Subashini Johnson on 2.1.2012 and the same was approved by the third respondent through the proceedings of the third respondent, dated 17.9.2012. As such, there is no vacancy in the fourth respondent School to accommodate the petitioner.

4. Therefore, in the light of G.O.Ms.No.107, issued by the Personnel and Administrative Reforms (M) Department, dated 12.8.2009, the appointment of the petitioner has not been approved by the third respondent and subsequently, the petitioner was also removed from the fourth respondent School and the said post was filled by the fourth respondent by appointing Mrs.Subashini Johnson on 2.1.2012 and the same was approved by the third respondent vide proceedings, dated 17.9.2012. Therefore, the writ petition deserves to be dismissed. This order will not stand in the way of the petitioner to approach the fourth respondent for arrears of salary if any, if it is otherwise eligible.

In fine, the writ petition stands dismissed. with the above observation. No costs. Connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

- 1 The Secretary to Government,
State of Tamil Nadu,
School Education Department, Secretariat, Chennai 600 009.
 - 2 The Director of School Education,
DPI Campus, College Road, Chennai 600 006.
 - 3 The District Educational Officer,
Thiruvallur District, Thiruvallur.
 - 4 The Correspondent,
Dasar Higher Secondary School,
Dasarpuram, Thiruninravur R.S.,
Thiruninravur 602 024, Thiruvallur District.
- +1 CC to Mr.G.SAnkaran, Advocate sr 30205.
+1 CC to Govt. Pleader sr 31065.
+1 CC to Mr.D.Ramesh Rai, Advocate sr 30722.

सत्यमेव जयते

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SAI (CO)
SP(14/05/2019)

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