



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No. 34420 of 2019
and
W.M.P.No. 35091 of 2019

Lakshmi

...Petitioner

Vs.

1.The State of Tamilnadu,
Rep. By its Principal Secretary,
Department of School Education,
Fort St.George, Chennai - 600 009.

2.The Director of School Education,
School Education Department,
College Road, DPI Campus,
Chennai - 600 006.

3.The Joint Director of School Education (Personnel),
School Education Department,
College Road, DPI Campus,
Chennai - 600 006.

4.The Chief Educational Officer,
Villupuram District,
Villupuram - 605 103.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Mandamus directing the respondents 2 to 3 to provide re-employment as Special Teacher in Tailoring forthwith to the petitioner as per the G.O.Ms.No. 261, School Education Department dated 20.12.2018 issued by the 1st respondent with effect from her superannuation on 01.11.2019 till 31.05.2020 with all other service benefits.

For Petitioner : Mr.M.R.Jothimanian
for Mr.K.Balu

For Respondents : Mrs.V.Annalakshmi,
Government Advocate



O R D E R

This writ petition has been filed seeking for a direction to the respondents to permit the petitioner to continue as a Special Teacher in Tailoring till the end of the academic year in accordance with G.O.Ms.No. 261, dated 20.12.2018.

2. It is seen from the records that the petitioner is working as a Special Teacher for Tailoring from the year 2005 onwards. The petitioner had attained superannuation on 31.10.2019. Since the service of the petitioner was not extended till the end of the academic year in accordance with G.O.Ms.No.261, dated 20.12.2018, the petitioner made a representation to extend her service till the end of the academic year. It is the claim made by the petitioner that she was also referred to the medical board to check her physical fitness. Since the representation made by the petitioner has not been considered, the petitioner has approached this Court.

3. Heard Mr.M.R.Jothimanian, learned counsel appearing on behalf of the petitioner and Mrs.V.Annalakshmi, learned Government Advocate appearing on behalf of the respondents.

4. Mrs.V.Annalakshmi, learned Government Advocate appearing on behalf of the respondents submitted that the petitioner cannot make this claim as a matter of right. The learned counsel submitted that there are surplus teachers found to be re-deployed to various schools and only after they are accommodated, the claim made by the petitioner can be considered. The learned counsel in order to substantiate her submissions, placed reliance upon the recent order passed by the Hon'ble First bench of this Court in W.A.No. 3951 of 2019 dated 25.11.2019. It is also relevant to extract the order passed by the Hon'ble first bench:-

"The contention raised by the learned Special Government Pleader (Education) is that the learned Single Judge has committed an error in relying on the earlier Division Bench judgment and has not properly construed the Government Order dated 20.12.2018, according to which, the arrangement of surplus teacher is permitted and therefore compulsion to re-employ is not available as a matter of right to the respondent / writ petitioner. The contention requires to be considered having perused the Government Order dated 20.12.2018.

2. Learned Special Government Pleader (Education) has also relied upon a Division Bench judgment of this Court in the case of the Director of Elementary



Education and others Vs. C.Rangan, decided on 20.09.2019 in W.A.No. 2611 of 2019 and also urged that the respondent / writ petitioner has already attained superannuation.

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3. Issue notice to the respondent returnable on 17.12.2019. In the mean time, the appellants will not be compelled to proceed pursuant to the directions of the learned Single Judge, but in the event, if the appeal fails, the respondent / writ petitioner will be entitled to get salary."

5. By placing reliance upon the above order, the learned counsel submitted that the petitioner cannot claim for extension of service till the end of the academic year as a matter of right.

6. This Court has carefully considered the submissions made on either side and also the orders passed by the Hon'ble first bench.

7. The petitioner is claiming for extension of service till the end of the academic year based on G.O.Ms.No. 261, dated 20.12.2018. The order that has been extracted supra makes it clear that priority must be given to surplus teachers and such extension of service can be made only if such surplus teachers are not available.

8. In the facts and circumstances of the case, there shall be a direction to the second respondent to consider the representation made by the petitioner and if in the absence of any surplus teacher for re-deployment in the concerned school, shall consider the claim made by the petitioner, if the petitioner satisfies the requirements under G.O.Ms.No.261 dated 20.12.2018. A decision shall be taken in this regard within a period of two (2) weeks from the date of receipt of a copy of this order. The petitioner is directed to make a fresh representation to the second respondent along with a copy of this order.

9. This writ petition is disposed off, with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

kkn



To:-

- 1.The Principal Secretary,
State of Tamilnadu,
Department of School Education,
Fort St.George, Chennai - 600 009.
- 2.The Director of School Education,
School Education Department,
College Road, DPI Campus,
Chennai - 600 006.
- 3.The Joint Director of School Education (Personnel),
School Education Department,
College Road, DPI Campus,
Chennai - 600 006.
- 4.The Chief Educational Officer,
Villupuram District, Villupuram - 605 103.

+1cc to Mr.K.Balu , Advocate SR.No.103520
+1 cc to Government Pleader Sr.No. 104008

W.P.No. 34420 of 2019
and
W.M.P.No. 35091 of 2019

A.SK(13/12/2019)