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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2019

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.34886 of 2019

K.Geetha

Petitioner

vs.

1. The Chief Educational Officer,
Coimbatore District.
2. The Government Higher Secondary School,
Rep. by its Head Master,
Vettaikaranpudur,
Coimbatore District.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, ordering for the Petitioner's Re-employment as B.T. Assistant Tamil Teacher at the 2nd respondent/School from 01.07.2019 to 31.05.2020, directing the respondents to permit the petitioner to continue his service till 31.05.2020 with all service and monetary benefits for the periods from 01.07.2019 to 31.05.2020 in the light of G.O.Ms.No.261, School Education Department, dated: 20.12.2018 and also duly considering the Petitioner's advance application to that effect dated 03.06.2019.

For Petitioner : Mr.A.Amalraj
For Respondents: Mrs.V.Annalakshmi
Government Advocate

ORDER

This writ petition has been filed for issuance of writ of mandamus directing the respondents to continue the service of the petitioner till the end of the academic year in accordance with G.O.Ms.No.261, School Education Department, dated 20.12.2018.

2.The case of the petitioner is that the petitioner was selected as a B.T Assistant Teacher in the year 2012 and she was posted in the 2nd respondent School. The superannuation of the petitioner fell on 30.06.2019 and the petitioner claims to be entitled to be employed in the 2nd respondent school till the end



of the academic year by virtue of G.O.Ms.No.261, dated 20.12.2018. Since, the petitioner has been stopped from attending the school, the present writ petition has been filed before this Court.

3.The learned counsel for the petitioner submitted that the petitioner is entitled to be engaged by the 2nd respondent school till the end of the academic year, since, the petitioner superannuated in the middle of the academic year and G.O.Ms.No.261, dated 20.12.2018, makes it clear that in such cases, the services of the Teacher will have to be retained till the end of the academic year. The learned counsel submitted that there are only four teachers in the 2nd respondent school and already one Teacher has retired and gone and out of three Teachers, even if the petitioner is made to retire during the middle of the academic year, the interest of the students will be affected and the school will suffer from non-availability of Teacher.

4.Per contra, Mrs.V.Annalakshmi, learned Government Advocate appearing on behalf of the respondents submitted that the Division Bench of this Court has already held that such vacancies will have to be first filled up with surplus teachers and only in cases where they are not available, such extension of service can be given to the Teacher retiring during the middle of the academic year. To substantiate her submissions, the learned counsel placed reliance upon the earlier judgment of the Division Bench of this Court in W.A.No.2611 of 2019, dated 20.09.2019. This order has subsequently been reiterated in W.A.No.3951 of 2019 by an order dated 25.11.2019.

5.This Court has carefully considered the submissions made on either side and also the materials available on record.

6.In view of the orders passed by the Division Bench, the respondents are bound to first fill up the vacancy with the excess Teachers who are required to be redeployed in such schools. Only in the absence of any excess Teachers, the petitioner can be considered for extension of service till the end of the academic year by virtue of G.O.Ms.No.261, dated 20.12.2018.

7.In view of the above, the petitioner is directed to make a representation to the first respondent along with a copy of the representation dated 03.06.2019 and the 1st respondent is directed to consider the same and in the absence of any excess teachers available for redeployment in the 2nd respondent school, the case of the petitioner can be considered in accordance with



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G.O.Ms.No.261, dated 20.12.2018. A decision shall be taken in this regard within a period of four weeks from the date of receipt of representation from the petitioner.

8.This writ petition is disposed of with the above directions. No Costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chief Educational Officer,
Coimbatore District.
2. The Head Master,
Government Higher Secondary School,
Vettaikaranpudur, Coimbatore District.

+1 cc to M/s.A.Amalraj,Advocate Sr.No. 104976
+1 cc to The Government Pleader Sr.No. 105828

AKM/19.12.19/3P-5C /

W.P No.34886 of 2019