

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.12.2019

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH.

W.P.No.35326 of 2019
and WMP No.36142 & 36143 of 2019

M.Ranjani

.. Petitioner

Vs

1. The Joint Director of Elementary Education (Aided),
College Road,
Chennai 600 006.
2. The District Educational Officer,
Gingee,
Villupuram District.
3. The Block Educational Officer,
Melmalayanur - 604 204,
Gingee Taluk,
Villupuram District.
4. The Correspondent,
M.D.Schools,
Gnanodayam Circle,
Gnanodayam - 604 204.
Villupuram District.

.. Respondents

Prayer .: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to call for the records in impugned order dated 15.10.2019 passed in proceedings Pro.Na.Ka.No.2138/B1/2019 by the 2nd respondent and 2) Na.Ka.No.56/A1/2019 dated 25.10.2019 of the third respondent and quash the order insofar as it relates to the condition that approval will be granted after redeployment of teachers and to issue consequential directions to the 2nd respondent to pass appropriate reasonable order on the proposal of the 4th respondent dated 15.10.2015 on merits in accordance with law a fresh based on the report dated 22.01.2016 of the third respondent.

For Petitioner : Mr.J.Muthukumaran
For Respondents : Mrs.V.Annalakshmi,
Government Advocate
for R1 to R3.

O R D E R

This writ petition has been filed challenging the impugned proceedings of the 2nd respondent dated 15.10.2019, refusing to grant approval for the appointment of the petitioner on the ground that the post must be filled up with the surplus teachers by redeployment.

2. The case of the petitioner is that the petitioner was appointed as a Secondary grade teacher with effect from 15.10.2015 in the 4th respondent school. The 3rd respondent by his proceedings dated 22.01.2016, had also recommended to the 2nd respondent for approval of the appointment of the petitioner as Secondary grade teacher. A reminder was also sent by the 4th respondent on 17.07.2019 in this regard. In the meantime on 18.07.2019, the 3rd respondent once again brought to the notice of the 2nd respondent about the proposal that was sent in the year 2015, seeking for approval of the appointment of the petitioner in the post of Secondary grade teacher.

3. The 3rd respondent has now sent a communication to the 4th respondent school on 25.10.2019 to the effect that the appointment of the petitioner cannot be approved, since only the surplus teachers can be redeployed in the available vacancy. Aggrieved by the same, the petitioner has approached this Court seeking for appropriate directions.

4. The learned counsel for the petitioner submitted that the petitioner was appointed as Secondary Grade teacher in the year 2015 and the 3rd respondent had already recommended for the approval of the appointment of the petitioner and the proposal was also sent to the 2nd respondent. It was kept pending for nearly three years and now the proposal is rejected on the ground that the surplus teachers must be redeployed in the available vacancy. The learned counsel submitted that the Division Bench Judgement of this Court and the proceedings of the District Educational Officer dated 15.10.2019, directing to fill up all vacancies by redeployment of surplus teachers cannot be given retrospective effect for those appointments which took place in the year 2015. Therefore, the learned counsel for the petitioner submitted that the impugned proceedings of the 2nd & 3rd respondent requires interference.

5. Per contra, Mrs.V.Annalakshmi, learned Government Advocate appearing for the respondents submitted that the proceedings of the 2nd & 3rd respondents is well within the orders passed by the Hon'ble Division Bench of this Court in WP No.31575 of 2019 dated 08.11.2019. The learned counsel submitted that the Division Bench of this Court had directed the authorities to deploy surplus teachers in all aided schools and till such deployment is completed, no aided school must be permitted to make any recruitment for the vacant post. The learned counsel submitted that in view of the orders passed by the Division Bench, the respondents 2 and 3 did not have any other option expect to refuse granting sanction of the appointment of the petitioner.

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

7.This Court on an earlier occasion dealt with the same issue in WP No.33889 of 2019 and the relevant portions of the Judgement is extracted hereunder :-

8.At this juncture, it will be relevant to take note of the interim order of the Division Bench of this Court in W.P.No.31575 of 2019 dated 08.11.2019. The relevant portion of the interim order is extracted hereunder:

"7.A perusal of the information which has been placed before this Court and as made available by the concerned Department would disclose that there are very many surplus teachers available for deployment and despite that recruitments are taking place and as a consequence, the Government is put to heavy financial burden.

8.In the light of the above facts and circumstances, the respondents 4 to 6 are directed to take immediate and necessary steps to deploy the surplus teachers in Government run Middle Schools and High Schools and till such deployment is completed, there cannot be any recruitment to the said post, until further orders. Since a comprehensive Writ Petition in the form of Public Interest Litigation has been filed. Registry after obtaining appropriate orders. Tg W.A(MD).No.76 of 2019 along with this writ petition."

9. In view of the specific directions given by this Court, the 2nd respondent had no other option except to fill up the posts by deploying the surplus teachers who are available. Therefore, this Court does not find any illegality in the impugned communication of the 2nd respondent dated 24.09.2019. However, the petitioner school has already appointed a Secondary Grade Teacher and they are in the middle of the academic year. By now, the entire deployment of surplus teachers must have been completed. Therefore, in the absence of any surplus teacher being available for being deployed in the petitioner school, it will be in the interest of the petitioner school as well as the students to permit the teacher who has already been appointed to continue as a Secondary Grade Teacher in the school. Such a pragmatic approach has to be made in cases of this nature more particularly since the petitioner school is having only two teachers.

8. From the above order, it is clear that this Court had directed the authorities to see if there are any surplus teachers available to be deployed in the concerned school and in the absence of the same, this Court had directed the school authorities to consider the claim of the petitioner therein.

9. In the present case, the petitioner was appointed in the year 2015 in a sanctioned post and the 3rd respondent had already recommended to the 2nd respondent to grant approval for the petitioner's appointment in the year 2016 itself. The proposal was kept pending till 2019 and now the orders passed by the Division Bench is being put against the petitioner. The scope of the order passed by the Division Bench cannot cover cases where the employment had happened long back in a sanctioned post. It must be borne in mind that the petitioner is functioning as a teacher for the last four years and at this stage, she cannot be told that her appointment will not be sanctioned till the surplus teacher is deployed in the 4th respondent school. Such an attitude will defeat the rights of the petitioner and the Division Bench order of this Court cannot be given retrospective effect where the appointment had happened long prior to the orders passed by this Court.

10. In the result, the impugned proceedings of the 3rd respondent dated 25.10.2019, requires interference. The 4th respondent school is directed once again send a proposal to respondents 2 and 3 and the respondents 2 and 3 are directed to act upon the proposal in accordance with law and grant approval,

if the petitioner otherwise full fills all the other requirements. This exercise shall be completed within a period of six weeks from the date of receipt of copy of this order.

11. This writ petition is disposed of with the above directions. No costs. Consequently, all connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Joint Director of Elementary Education (Aided),
College Road,
Chennai 600 006.
- 2.The District Educational Officer,
Gingee,
Villupuram District.
- 3.The Block Educational Officer,
Melmalayanur - 604 204,
Gingee Taluk,
Villupuram District.
- 4.The Correspondent,
M.D.Schools,
Gnanodayam Circle,
Gnanodayam - 604 204.
Villupuram District.

+1cc to Mr.J.Muthukumaran, Advocate SR.106755
+1cc to the Government Pleader SR.106821

सत्यमेव जयते

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and WMP No.36142 & 36143 of 2019

CA(CO)
CB(06/02/2020)

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