



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2019

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WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD)No.6779 of 2018

C.Sakaya Kala

... Petitioner

Vs.

1.The District Elementary Educational Officer,
Ramanathapuram Education District,
Ramanathapuram.

2.The Additional Assistant Elementary Educational Officer,
Office of Assistant Elementary Education Office,
Kamuthi,
Ramanathapuram District.

3.The Correspondent,
R.C. Primary School,
Perunali,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the first respondent to approve forthwith the appointment of the petitioner as Secondary Grade Teacher w.e.f 21.06.2016 in 3rd respondent with all attendant benefits including arrears of salary and allowances.

For Petitioner : Mr.S.Balamurugan

For R1 to R3 : Mrs.S.Srimathy,
Special Government Pleader

ORDER

Seeking a direction to the first respondent to approve forthwith the appointment of the petitioner as Secondary Grade Teacher in the third respondent School with effect from 21.06.2016 with all attendant benefits including arrears of salary and allowances, the present writ petition came to be filed.

2.According to the petitioner, the third respondent School is a recognised minority aided school. The petitioner was appointed as a Secondary Grade Teacher in a vacancy arisen on account of transfer of one J.Vanakkarani. Since the said post was a sanctioned



one, the third respondent sent a proposal through proper channel to the first respondent requesting to approve the appointment of the petitioner and disburse grant-in-aid towards her salary. However, vide proceedings dated 14.02.2017, the second respondent, without forwarding the same, returned it to the third respondent School, for want of production of TET certificate from the petitioner, besides calling for some clarifications. After rectifying the queries, the third respondent resubmitted the proposal, except passing of TET by the petitioner. Now, the said proposal is stated to be pending with the first respondent for approval. Hence, the petitioner has come forward with the present writ petition for the aforesaid relief.

3. Upon notice, the respondents 1 and 2 filed a detailed counter affidavit *inter alia* stating at paragraph no.12 as follows:

"12. It is submitted that in the present case, the 3rd respondent school is functioning within the jurisdiction of the 2nd respondent. It is ascertained that within the 2nd respondent Block, there are three secondary grade teacher posts found surplus in some other schools under the same R.C.Diocese Management. Further, information reveals that there are about 100 surplus posts are found in various schools which are functioning under the single management of R.C.Diocese Sivagangai - Ramnad. It is to state here that if any vacancy arise due to whether transfer, promotion, superannuation or any other means, it is duty cast upon the R.C.Diocese Sivagangai - Ramnad Diocese and the 3rd respondent school management to deploy anyone of the three surplus teachers available within the 2nd respondent Block or any of the 100 surplus teachers in the schools under the R.C.Diocese Sivagangai - Ramnad Management. Instead of doing so, simply make fresh appointments to put the State Government under financial crisis is not proper and the petitioner's appointment in the 3rd respondent school is totally illegal and absolute wrong committed by the Managements."

It is further stated therein that one among the reasons for denying approval of the petitioner's appointment was that she does not possess TET qualification. Stating so, the respondents 1 and 2 prayed for dismissal of this writ petition.

4. The learned counsel appearing for the petitioner submitted that the approval sought is only for the sanctioned staff strength and therefore, there is no surplus teacher in the 3rd respondent School. The learned counsel further submitted that as per G.O(Ms) No.525, School Education (D1) Department, dated 29.12.1997, it is only for the Director of Elementary Education to redeploy the staff from one School to another and the respondent School cannot redeploy them on its own. In support of his submissions, he relied on a Division Bench decision of this Court in *the Director of Elementary Education and others Vs. the Correspondent* [2018 (1)

Writ L.R 421]. With regard to non-possession of TET qualification by the petitioner, the learned counsel submitted that the third respondent school is a minority institution and hence, G.O.Ms.No.181 prescribing TET qualification for appointment to the post of B.T. Assistant/Secondary Grade Teacher, is not applicable to them, as held by the Division Bench of this Court in Secretary to Government, Education Department, Chennai and others v. S.Jeyalakshmi and another, 2016 (5) CTC 639 : 2016 (7) MLJ 155. Hence, the learned counsel sought for appropriate direction to the respondents seeking approval of the petitioner's appointment.

5.Reiterating the averments stated in the counter affidavit, the learned Special Government Pleader appearing for the respondents 1 and 2 made her submissions. However, she has not disputed the decisions relied on the side of the petitioner.

6.Considering the facts and circumstances of the case and having regard to the submissions made on either side and also taking note of the decisions cited on the side of the petitioner, this Court directs the first respondent to consider the proposal resubmitted by the third respondent on 02.02.2018 and grant approval for appointment of the petitioner as Secondary Grade Teacher in the 3rd respondent school, at the earliest. As and when the approval is granted, considering the surplus strength, deployment order is to be given forthwith by the Management with immediate effect.

7.With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The District Elementary Educational Officer,
Ramanathapuram Education District,
Ramanathapuram.

2.The Additional Assistant Elementary Educational Officer,
Office of Assistant Elementary Education Office,
Kamuthi, Ramanathapuram District.

+1CC TO MR.S.BALAMURUGAN, Advocate Sr. No.52551

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 52668

W.P(MD)No.6779 of 2018

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