



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

WP (MD) No.8008 of 2018

and

WMP (MD) Nos.7606 and 7607 of 2018

T.Sheeba

... Petitioner

Vs.

1.The Secretary to Government,
School Education Department,
Saint George Fort,
Chennai.

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

3.The Chief Educational Officer,
Kanyakumari District at Nagercoil.

4.The District Educational Officer,
Kuzhithurai,
Kanyakumari District - 629 175.

5.The Correspondent,
Saint Mary's Higher Secondary School,
Melpalai,
Kanyakumari 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 on the file of the 4th respondent pertaining to its order bearing Oo.mu.No.6330/A2/2017 dated 26.02.2018 and to quash the same and consequently directing the respondents to approve the appointment of the petitioner in the post of B.T Assistant (Science) from the date of appointment that is on 01.06.2015 and direct the respondents to disburse monetary and other attendant service benefits, including payment of arrears of salary from the date of appointment that is 01.06.2015 with interest within time frame that may be fixed by this Court.

For Petitioner

: Mr.S.C.Herold Singh

For Respondent

: Mrs.S.Srimathy,

Nos. 1 to 4

Special Government Pleader

For Respondent

:Mr.K.Ragathees Kumar,

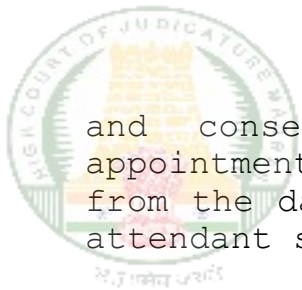
No.5

for M/s.Issac Chamber

ORDER

<https://hcservices.ecourts.gov.in/hcservices/>

This writ petition has been filed seeking to quash the order in Oo.Mu.No.6330/A2/2017 dated 26.02.2018 passed by the 4th respondent



and consequently to direct the respondents to approve the appointment of the petitioner in the post of B.T Assistant (Science) from the date of her appointment and to disburse monetary and other attendant service benefits.

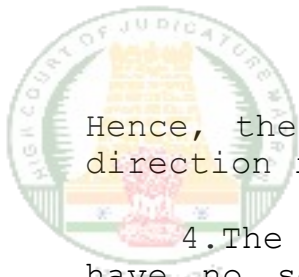
2. The grievance of the petitioner is that she was appointed as B.T. Assistant (Science) under the 5th respondent School on 01.06.2015 and the proposal sent by the school seeking approval of her appointment was returned on the ground that unless a general guideline is issued with regard to the cadre strength, appointment etc, in Government aided, Private, Minority and Non Minority High Schools and Higher Secondary Schools, the proposal for approval cannot be considered. Aggrieved against, the same, the petitioner is before this Court, seeking to quash the same with consequential directions.

3. The learned Counsel for the petitioner submitted that the issue involved in this writ petition had already been settled by a decision of this Court, in the case of K.Vijila Vs The Secretary to Government, School Education Department and four others, in WP(MD) No.8110 of 2018 on 25.04.2018. The relevant portions of the above order read as follows:

"7. On perusal of the impugned order dated 26.02.2018, it is found that no other reason has been cited by the fourth respondent. As the reasons that the petitioner, who has been appointed, is not a qualified Teacher nor the way in which the appointment was made by the fifth respondent is not an approved method of appointment nor any other acceptable reason were given except to state that awaits the general guideline to be issued in this regard to the staff fixation and therefore, this proposal cannot be considered.

8. It is a fundamental principle that, once the Authority is acting in any particular issue, the date on which action is taken and order is passed what is the available legal position in law, rules, regulations, guideline etc., alone shall be a matter and in anticipation of any rule, law, guideline etc., no Authority can be expected to act.

9. Therefore, the impugned order also discloses as on date, all the impugned order (dated 26.02.2018) no such guideline as expected by the fourth respondent has been issued by the Government. Even today, it seems that no such guideline has been issued. Therefore, in anticipation of issuance of the guideline, the proposal of appointment of the petitioner can neither be withheld nor be rejected. Therefore, this Court has no hesitation to hold that the reason cited in the impugned order can be quashed. Accordingly, it is quashed".



Hence, the learned Counsel for the petitioner prayed for a similar direction in this writ petition also

4.The learned Counsel appearing for the respective respondents have no serious objection on the above submissions made by the learned Counsel for the petitioner.

5.Taking into consideration the submissions made on either side, and following the aforesaid order, the impugned order is quashed and the matter is remitted back to the 4th respondent for reconsideration of the proposal submitted by the 5th respondent. It is open to the fourth respondent to verify the educational qualification and other suitability of the petitioner for appointment to the post of B.T. Assistant (Science) in the 5th respondent School, on the basis of the rules available as on date and accordingly, pass orders thereon, within a period of six weeks from the date of receipt of a copy of this order.

6.The writ petition is disposed of, on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Secretary to Government,
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Saint George Fort,
Chennai.

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Chennai - 600 006.

3.The Chief Educational Officer,
Kanyakumari District at Nagercoil.

4.The District Educational Officer,
Kuzhithurai,
Kanyakumari District - 629 175.

+1cc to M/S.ISAAC CHAMBERS, Advocate, SR.No. 55223

+1cc to Mr.S.C.Herold Singh, Advocate, SR.No.55138

WP(MD)No.8008 of 2018

19.03.2019