



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE. R.MAHADEVAN

WEB COPY

W.P. (MD) No.6396 of 2019

and

W.M.P. (MD) Nos.5102 and 5103 of 2019

The Correspondent,
St.Joseph's Girls Higher Secondary School,
Madurai-625 009,
Madurai District.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of School Education,
Fort St. George, Chennai - 600 009.

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

3.The Joint Director (Vocational),
College Road, Chennai - 600 006.

4.The Chief Educational Officer,
Madurai, Madurai District.

5.The District Educational Officer,
Madurai, Madurai District. ... Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the fourth respondent CEO in Na.Ka.No.5817/A1/2017 dated 30.10.2017 in so far as 8th condition is concerned and the consequential proceedings of the fifth respondent DEO in A.Thi.Mu.No. 7017/A2/18 dated --.02.2019 refusing approval to the appointment of K.Sahaya Praba as Vocational Instructor, quash the same and further direct the respondents herein to approve forthwith the appointment K.Sahaya Prabha as Vocational Instructor in Accountancy & Auditing w.e.f. the date of her appointment viz., 01.06.2018, with salary and all attendant benefits.

For Petitioner : M/s.A.Amala

For Respondents : Mrs.S.Srimathy,

Special Government Pleader.

ORDER

The Writ Petition is filed seeking for issuance of writ of Certiorarified Mandamus, to quash the impugned proceedings issued by the fourth respondent in Na.Ka.No.5817/A1/2017 dated 30.10.2017 insofar as the 8th condition is concerned and the consequential proceedings of the fifth respondent in A.Thi.Mu.No. 7017/A2/18 dated --.02.2019 refusing approval on the appointment of K.Sahaya Praba as Vocational Instructor and further direct the respondents to approve forthwith the said appointment with effect from 01.06.2018, with salary and all other attendant benefits.

2. Heard the learned Counsel appearing for the petitioner and the learned Special Government Pleader, who takes notice for the respondents. By consent, the writ petition is taken up for disposal at the admission stage itself.

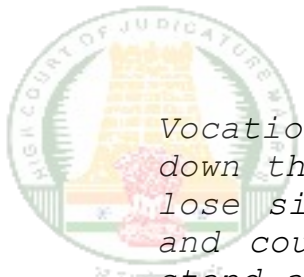
3.The learned counsel appearing for the petitioner submitted that the issue involved in the present Writ Petition is squarely covered by the earlier Judgment of this Court in **The State of Tamil Nadu and others Vs. The Secretary/Correspondent [W.A(MD)No.1494 of 2017, decided on 01.03.2018]**, and prayed for allowing this Writ Petition on the similar lines.

4.The learned Special Government Pleader appearing for the respondents is not disputing the same and submitted that the Government has also issued G.O(Ms)No.142, School Education (SE7-1) Department, dated 13.07.2018.

5.It is useful to refer to the relevant portions of the Judgment of this Court in **The State of Tamil Nadu and others Vs. The Secretary/Correspondent [W.A(MD)No.1494 of 2017, decided on 01.03.2018]**, hereunder:-

"7.After elaborate and careful perusal of the materials on record, we find from the staff fixation year 2013-14, dated 29.10.2017 as on 01.08.2013 there was one post of Vocational Instructor for the subject General Mechanist and on the date when Thiru.R.Kannan was appointed, ie., 10.06.2013, the School had one post of Vocational Instructor and therefore, to state that the appointment itself is not sustainable is a stand which has to be rejected.

8.Next we come to staff fixation done by the Department for the year 2014 vide order, dated 07.11.2014. It is interesting to note that in the said order, the appellant department records the fact that there are 46 students in the 11th standard and 39 students in the 12th standard inspite of the same stated in the fixation order that one post is surplus. In our considered view, the Department cannot take such a technical plea. When it is admitted fact there exists sufficient students strength, the course has to continue. Thus, the order of the fifth respondent showing one post of



Vocational Instructor as surplus, he has virtually closed down the said course as there would be no teacher. We cannot lose sight of the fact when there is full students strength and course is in demand, the Department cannot take such a stand and render one post as surplus. In the Government Order in G.O.Ms.No.525, School Education (D1) Department, dated 29.12.1997, in paragraph No.IV, the number of post eligible for Higher Secondary School is mentioned in the clause (d) of the said order which states that for vocational stream, two posts of teachers (full time) will be sanctioned irrespective of the number of courses. Therefore, even while passing the order, dated 29.10.2013 and fixing the staff strength for the year 2013-14, the respondent/Management was entitled to two post of Vocational Instructor. Thus, we find the reason for rejection of approval of the Vocational Instructor, Thiru.R.Kannan as well as staff fixation for the year 2014-2015 is completely flawed.

9. In the result, we dismiss the Writ Appeal for the reasons stated above and issue the following directions:-

(i) The respondents 4 and 5 shall approve the appointment of Thiru.R.Kannan, Vocational Instructor, which appointment was made on 10.06.2013, as the post was very much available in terms of staff fixation order, dated 29.10.2013.

(ii) Insofar the Academic Year 2014-2015 is concerned, the respondents 4 and 5 are directed to take note of the factual aspects which is admitted in the fixation order itself, namely, students strength and sanction one post with effect from the year 2014-2015 onwards in the category Vocational Instructor and the petitioner is entitled to be paid salary in the said post.

10. The above direction should be complied with within a period of twelve weeks from the date of receipt of copy of this order. Accordingly, the Writ Appeal fails and stands dismissed."

6. Following the same, the respondents are directed to approve the appointment of the petitioner within a period of four weeks from the date of receipt of a copy of this order.

7. The Writ Petition stands disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (W)

/ True Copy /



To:

1. The Secretary to Government,
Department of School Education,
Fort St. George, Chennai - 600 009.

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

3. The Joint Director (Vocational),
College Road, Chennai - 600 006.

4. The Chief Educational Officer,
Madurai, Madurai District.

5. The District Educational Officer,
Madurai, Madurai District.

+1 CC to M/s.SPL GP (SR-55286[F] dated 20/03/2019)

+1 CC to M/s.A.AMALA, Advocate (SR-55538[F] dated 21/03/2019)

W.P. (MD) No. 6396 of 2019
and

W.M.P. (MD) Nos. 5102 and 5103 of 2019
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