



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.04.2019

CORAM:

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

W.P(MD)No.9634 of 2019 and
WMP(MD).No.7566 of 2019

The Correspondent,
St. Mary's Higher Secondary School,
Vickramasingapuram,
Thirunelveli District.

... Petitioner

Vs.

1.The Director of School Education,
College Road, Chennai.

2.The Joint Director of School Education,
(Secondary Education),
College Road, Chennai - 600 006.

3. The Chief Educational Officer,
Thirunelveli, Thirunelveli District.

4.The District Educational Officer,
Cheranmahadevi, Thirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned proceedings issued by the 3rd respondent CEO in Mu.Mu.No.1631/A2/2017 dated 23.03.2017 (in so far as the conversion of the post of BT Assistant Maths from the date of issuance of his proceedings w.e.f. 23.03.2017 and the consequential proceedings issued by the 4th respondent DEO in Ne.Mu.No.1497/A3/2017, dated 12.06.2017 (in so far as approving the appointment of Mrs. A. Amalashiny as BT Assistant in Maths w.e.f. 23.03.2017) and the subsequent proceedings of the 2nd Joint Director in Oo.Mu.No.079405/D2/E3/2017, dated 14.02.2019 (confirming the order of the CEO dated 23.03.2017) quash the same and further direct the respondents 2 to 4 herein to approve forthwith the appointment of Mrs.A. Amalashiny as BT Assistant in Maths in the petitioner School w.e.f. the date of her actual appointment i.e. 20.07.2015 and disburse grant-in-aid towards her salary and other attendant benefits.

For Petitioner : Mr. T. Cibi Chakaraborthy

<https://hcservices.ecourts.gov.in/hcservices/> For R1 to R4

: Mrs. S. Srimathy
Special Government Pleader

**ORDER**

This writ petition has been filed seeking a writ of Certiorari to quash the impugned proceedings issued by the third respondent, dated 23.03.2017 and the consequential proceedings issued by the 4th respondent, dated 12.06.2017 and the subsequent proceedings of the second respondent dated 14.02.2019 and further direct the respondents 2 to 4 to approve forthwith the appointment of one A. Amalashiny as BT Assistant in Maths in the petitioner's School with effect from the date of her actual appointment i.e. on 20.07.2015 and disburse grant-in-aid towards her salary and other attendant benefits.

2. Mrs. S. Srimathy, learned Special Government Pleader takes notice for the respondents. By consent, the Writ Petition is taken for disposal in the admission stage itself.

3. It is the case of the petitioner that the petitioner school sent a proposal to the 4th respondent to convert the post of Secondary Grade Teacher as B.T. Assistant (Maths) in respect of one A. Amalashiny, from the date of her appointment i.e. on 20.07.2015. However, the fourth respondent approved the appointment of the said A. Amalashiny from 23.03.2017. The third respondent has also passed an order similar to that of the fourth respondent. Since the approval of appointment was not made from 20.07.2015, the petitioner has filed the present Writ Petition.

4. The learned Counsel for the petitioner submitted that the case of the petitioner is covered by the order of this Court in ***The Manager, RC Schools, Salem Diocese Society (Salem-Namakkal Districts, Mary Palace, 63, Thammannan Road, Salem - 636 009 v. The State of Tamil Nadu and others*** [W.P.No.19902 of 2008, decided on 30.04.2009], which was subsequently, upheld by the Division Bench of this Court in W.A.No.2058 of 2010, decided on 21.03.2011. Hence, he prayed for the similar relief to this petitioner also.

5. Per contra, the learned Special Government Pleader appearing for the respondents 1 to 4 contended that the orders impugned herein have been passed by the respective respondents, after taking into account all the relevant Government Orders.

6. I have considered the submissions made on either side and perused the materials available on record.

7. This Court, in ***The Manager, RC Schools, Salem Diocese Society (Salem-Namakkal Districts, Mary Palace, 63, Thammannan Road, Salem - 636 009 v. The State of Tamil Nadu and others*** [W.P.No.19902 of 2008, decided on 30.04.2009], held as follows:

"2. A similar issue came up before this Court, which is reported in 2005-WLR-515 (M.Sivakumar Vs. The Government of Tamil Nadu by Secretary, Education Department, Fort St. George, Chennai - 9 and two



others, in which paragraph 7 is relevant and the same is extracted as under:-

"7. A careful perusal of the impugned orders would show that no reasons have been assigned by the Respondents to order salary for the Petitioner only from 28.3.1996 when the Management has very clearly stated that he joined duty as P.G. Assistant History on 25.10.1993 itself and is serving in the said capacity till date. But, neither the second Respondent in his order dated 28.3.1996 nor the third Respondent in his order dated 18.3.1997 have considered this aspect so as to grant the approval as it has been sought for on the part of the Management nor any reason has been assigned for denying the salary to the Petitioner from 25.10.1993 to 27.3.1996 and granting the same only from 28.3.1996 in spite of the specific case of the school authorities that on the retirement of the erstwhile Headmaster Mr.S.Krishnamoorthy, who was also taking History classes for the Higher Secondary Sections, there was virtually no teacher to take the History Classes in the school and hence the Petitioner who was a M.A. (History), B.Ed. candidate was appointed to cater to the needs of the school. Therefore, both the orders passed by the Respondents 2 and 3, since being inconsistent ones, this Court has to cause its interference into the same and quash the same and grant the relief as sought for on the part of the Petitioner and hence the following order:

In result,

(i) the above Writ Petition succeeds and the same is allowed.

(ii) The order of the second Respondent dated 28.3.1996 made in his K.Dis.No.47458/W6/95 and the consequential order of the third Respondent passed in his Na.Ka.No.1516/95/A1, dated 18.3.1997 are quashed.

(iii) The respondents 2 and 3 are hereby directed to issue necessary orders granting approval of the Petitioner's appointment as P.G. Assistant (History) in Sri Kayilai Subramani Desiga Swamigal Higher Secondary School, Tirupanandal, Thanjavur District w.e.f. 25.10.1993 i.e. from the date of his appointment in the school, within sixty days from the date of receipt of a copy of



this order. However, in the circumstances of the case, there shall be no order as to costs."

3. It is also not explained by the Respondents as to why they refused to approve the said conversion with effect from 3.9.2003, despite the admitted fact that the said teacher was appointed to the said post on that date.

4. In view of the said reasons and following the said judgement, this impugned order is set aside, in so far as the same is adverse to the Petitioner is concerned and accordingly, this Writ Petition is ordered, directing the Respondents to disburse the arrears of salary to the concerned teacher within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected MPs are closed."

8. Admittedly, the above said order was upheld by the Division Bench of this Court in W.A.No.2058 of 2010, decided on 21.03.2011.

9. In the light of the aforesaid admitted fact this Court is the view that the case of the petitioner is squarely covered by the aforesaid order. Hence, the impugned orders dated 23.03.2017, 12.06.2017 and 14.02.2019 are liable to be set aside and the same are set aside.

10. Accordingly, this writ petition is allowed and the matter is remitted back to the respondents for fresh consideration. The Third respondent is directed to pass appropriate orders, with regard to the claim of the petitioner, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

trp

To

1. The Director of School Education,
College Road, Chennai.



2.The Joint Director of School Education,
(Secondary Education),
College Road, Chennai - 600 006.

3. The Chief Educational Officer,
Thirunelveli, Thirunelveli District.

4.The District Educational Officer,
Cheranmahadevi, Thirunelveli District.

+1CC TO MR.T.CIBI CHAKRABORTHY, Advocate Sr. No.62329

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 62728

W.P(MD)No.9634 of 2019 and
WMP(MD) .No.7566 of 2019

NS(CO)

TR (20.05.2019) 5P 7C