



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 12.01.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.8894 of 2016

and

WMP (MD) Nos.7097 & 7098 of 2017

S.Mary Juliat

... Petitioner

Vs.

1. The Director of School Education,
College Road, Chennai.
2. The Chief Educational Officer,
Nagercoil, Kanyakumari District.
3. The District Educational Officer,
Thuckalai Educational District,
Thuckalai, Kanyakumari District.
4. The Correspondent,
St.Mary's Higher Secondary School,
Colachel, Kanyakumari District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the second respondent Chief Educational Officer in Mu.Mu.No.10216/Aa1/2009, dated 23.11.2009 the consequential proceedings issued by the third respondent DEO in Ni.Mu.No.10464/Aa1/2009 dated 15.12.2009, quash the same in so far as condition No.3 instructing that the subject conversion would be reckoned only w.e.f., 04.07.2008 and further direct the respondents to approve the appointment of the petitioner as BT Assistant in science w.e.f the date of appointment ie., 20.03.2007 in the fourth respondent school namely, St.Mary's Higher Secondary School, Colachel and disburse grant-in-aid towards petitioner's salary and other attendant benefits.

For Petitioner

: Ms.Amala
for Mr.T.Cibi Chakraborty

For Respondents

: Mr.J.Gunaseelan Muthaiah,
Additional Government Pleader

**ORDER**

The writ petitioner questions the impugned order dated 23.11.2009 passed by the second respondent granting approval to the appointment of the writ petitioner as B.T.Assistant (Science) with effect from 04.07.2008.

2.The case of the writ petitioner is that the fourth respondent school is a minority institution and is a recognized and aided one. The post of Secondary Grade Teacher fell vacant on 20.03.2007. Following the Government Order, the said post of Secondary Grade Teacher had to be converted into one of B.T.Assistant. The third respondent has to grant approval for such conversion. But, grant of approval is only for formal purposes.

3.In this case, the writ petitioner was appointed as B.T.Assistant on 20.03.2007. Merely because, the approval for such conversion as B.T.Assistant came later, approval of the writ petitioner's appointment cannot be approved from the said date. Relief to the writ petitioner will have to be necessarily given with effect from the date of her appointment and not from the date of approval of the conversion. The issue on hand is no longer res integra.

4.The Hon'ble Division Bench of this Court in WA(MD)No.828 of 2014 dated 22.04.2016 had categorically held that the order passed by the Chief Educational Officer permitting conversion should relate back to the date of appointment of the candidate. This was because, the post of secondary grade teacher was very much available for appointment in the school in question and the conversion was only in respect of the said post. Therefore, this Court held that the authorities were not correct in imposing a condition that the subject conversion and consequential approval would take effect only from the later date.

5.Following the decision of the Hon'ble Division Bench of this Court, this Court will have to necessarily quash the impugned order. It is accordingly quashed. The third respondent is directed to approve the appointment of the petitioner as B.T.Assistant (Science) in the fourth respondent school with effect from 20.03.2007 and disburse all the consequential monetary and attendant benefits. This writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar



To

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

2. The Chief Educational Officer,
Nagercoil, Kanyakumari District.

3. The District Educational Officer,
Thuckalai Educational District,
Thuckalai, Kanyakumari District.

+ 1 CC TO M/s.ISAAC CHAMBERS, IN SR No. 42362

SKM

TE/RSK/SAR-1 : 09/02/2018 : 3P/5C

W.P(MD)No.8894 of 2016 and
WMP(MD)Nos.7097 & 7098 of 2017
12.01.2018