



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.13886 of 2019

and

W.M.P. (MD) Nos.10393 and 10394 of 2019

R.Theivanai

... Petitioner

-Vs-

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

2.The Chief Educational Officer,
Pudukkottai District, Pudukkottai.

3.The District Educational Officer,
Illuppur, Pudukkottai District.

4.V.V.Higher Secondary School,
Represented by its Secretary,
Ponnamaravathi-622 407,
Pudukkottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned proceedings of the third respondent in O.Mu.No.1698/A2/2019, dated 07.05.2019 and quash the same as illegal and consequentially to direct the respondents 1 to 3 herein to accord prior permission for filling up the post of P.G. Assistant (Tamil) in the fourth respondent School and approve the appointment of the petitioner as P.G. Assistant (Tamil) in the fourth respondent School w.e.f., 06.01.2015 with salary and all other attendant benefits within the time frame fixed by this Court.

For Petitioner : Mr.M.Dinesh
For R1 to R3 : Mrs.S.Srimathy,
Special Government Pleader.

ORDER

The order of the third respondent dated 07.05.2019 is sought to be quashed in the present Writ Petition and further direction is sought for to direct the respondents 1 to 3 to accord prior permission for filling up the post of P.G. Assistant (Tamil) in the fourth respondent School and approve the appointment of the



petitioner as P.G. Assistant (Tamil) in the fourth respondent School w.e.f., 06.01.2015 with salary and all other attendant benefits within the time frame fixed by this Court.

2. According to the petitioner, she is possessing M.A. (Tamil), B.Ed., and she is fully eligible to be appointed to the post of P.G. Assistant (Tamil). The fourth respondent School is recognized Private Aided Non-Minority School. The incumbent P.Raveendran, who is the Headmaster of the fourth respondent School, retired from service on 31.05.2014, on attaining the age of superannuation. One SP.Unnamalai, who was working as P.G. Assistant (Physics) and was the senior most person, has relinquished her promotion, vide letter dated 15.12.2014. Hence, the fourth respondent School promoted one R.Tamilselvan, who is already working as P.G. Assistant (Tamil), to the post of Headmaster. Therefore, the post of P.G. Assistant (Tamil) fell vacant in the fourth respondent School. The fourth respondent applied for prior permission to fill up the said vacancy ie., P.G. Assistant (Tamil) on 11.12.2014.

3. The fourth respondent, after due process of selection, has appointed the petitioner on 06.01.2015 and sent the proposal for approving the appointment of the petitioner to the third respondent. However, the third respondent has not passed any order. On the other hand, he has returned the proposal, raising certain queries. The fourth respondent has resubmitted the proposal, after rectifying the defects. No order was passed on the proposal. Therefore, the petitioner made representations and made enquiries personally in the office of the third respondent. The petitioner was informed that the order on the proposal could not be passed, due to the pendency of the Writ Petition in W.P.(MD)No.20882 of 2014 filed with regard to the dispute in the management. The said Writ Petition was disposed of, by the order dated 04.04.2017, recording the compromise arrived at between the parties. Even after, no order was passed by the third respondent. Therefore, the petitioner has filed W.P.(MD) No.13442 of 2018, for a direction to the respondents 1 to 3 to pass orders on the proposal submitted by the fourth respondent to approve the appointment of the petitioner in the post of P.G. Assistant (Tamil). This Court, by the order dated 12.03.2019, directed the third respondent to pass orders on the representation of the petitioner, observing that pendency of the Writ Petition cannot be a ground for rejecting the approval of the appointment. Thereafter, the third respondent, by the impugned proceedings dated 07.05.2019, has returned the proposal submitted by the fourth respondent, raising new objections. Hence, the petitioner has come out with the present Writ Petition.

4. The learned counsel appearing for the petitioner contended that on promotion of R.Tamilselvan to the post of Headmaster, the post of P.G. Assistant (Tamil) fell vacant. Therefore, in that vacancy, the petitioner was appointed as P.G. Assistant (Tamil) on



06.01.2015. The fourth respondent has sent the proposal for approving the appointment of the petitioner as P.G. Assistant (Tamil) to the third respondent. From the date of appointment, the petitioner is working without salary. The third respondent did not raise these queries at the time of earlier return by the third respondent. In the Writ Petition filed by the petitioner in W.P. (MD) No.13442 of 2018, the respondents did not take such a plea. The only objection raised by the third respondent is pendency of the Writ Petition in W.P. (MD) No.20882 of 2014, with regard to the dispute in the management of the fourth respondent School. The said Writ Petition was disposed of on 04.04.2017, recording the compromise arrived at between the parties and prayed for allowing the Writ Petition.

5. The respondents 1 to 3 have not filed any counter affidavit. The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that the petitioner was appointed without prior permission to fill up the vacancy. The appointment of R. Tamilselvan to the post of Headmaster is yet to be approved. In view of the above, the appointment of the petitioner cannot be approved and the impugned proceedings are valid and prayed for dismissal of the Writ Petition.

6. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 3 and perused the materials available on record carefully.

7. From the materials on record, it is seen that when the post of Headmaster fell vacant in the fourth respondent School, on the retirement of the incumbent P. Ravindran on 31.05.2014, one R. Tamilselvan, who was working as P.G. Assistant (Tamil), was promoted as Headmaster. Therefore, the post of P.G. Assistant (Tamil) fell vacant in the fourth respondent School. The fourth respondent School sent the proposal for prior permission to fill up the said post. As no order was passed, the petitioner was appointed as P.G. Assistant (Tamil), after due process of selection in the said vacancy. The third respondent has not given any reason for non-granting permission to the fourth respondent School to fill up the said vacancy. The third respondent has also not given any reason for not passing any order on the proposal submitted by the fourth respondent, seeking prior permission for appointing the petitioner as P.G. Assistant (Tamil). Due to the delay in granting permission for appointment, in the interest of students, who will be writing Board Examination, the fourth respondent has appointed the petitioner as P.G. Assistant (Tamil), after due process of selection and sent the proposal to the third respondent. Again, the third respondent has not passed any orders on the proposal sent by the fourth respondent for approval of the appointment of the petitioner. The petitioner, after giving representation, has filed W.P. (MD) No.13442 of 2018, seeking for a direction to the respondents 1 to 3 to pass order on the approval of the appointment of the petitioner



in the post of P.G. Assistant (Tamil) in the fourth respondent School from the date of her initial appointment.

8.The only ground raised by the third respondent in the said Writ Petition for not approving the appointment of the petitioner is that the Writ Petition in W.P.(MD)No.20882 of 2014, filed with regard to the dispute in the management of the fourth respondent School is pending. From the order of this Court dated 12.03.2019 made in W.P.(MD)No.13442 of 2018 filed by the petitioner, it is seen that this Court held that pendency of the Writ Petition in W.P.(MD) No.20882 of 2014, filed with regard to the dispute in the management, cannot be a ground for not approving the appointment of the petitioner. The Writ Petition in W.P.(MD)No.20882 of 2014 filed with regard to the dispute was disposed of by this Court on 04.04.2017, recording the compromise arrived at between the parties. The third respondent, having not taken any objections, now raised in the impugned order, is not entitled to decline to approve the appointment of the petitioner. The issue of the approval of the appointment of the petitioner is pending from the year 2015 and the petitioner is working from the year 2015 without any salary.

9.Considering the different stand taken by the third respondent at different time, the impugned order of the third respondent dated 07.05.2019, is liable to be set aside, accordingly, set aside. The third respondent is directed to pass orders on the proposal for prior permission and approve the appointment of the petitioner to the post of P.G. Assistant (Tamil) forthwith and pay the salary.

10.With the above directions, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

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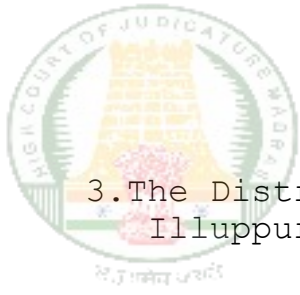
Sub Assistant Registrar(CS)

Myr

To

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

2.The Chief Educational Officer,
Pudukkottai District, Pudukkottai.



3.The District Educational Officer,
Illuppur, Pudukkottai District.

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