



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2019

CORAM:

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THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

W.P(MD) .No. 15159 of 2019
and W.M.P. (MD) No.11658 of 2019

S. Subbulakshmi

... Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Department of School Education,
Fort Saint George,
Chennai - 600 009.

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

3. The District Chief Educational officer,
Sivagangai District, Sivagangai.

4. The District Educational Officer,
Sivagangai.

5. The Head Master,
Government High School,
Ladanendal,
Sivagangai District.

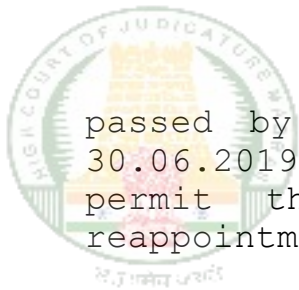
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the third respondent in O.M. No.3992/E3/2019, dated 30.06.2019 and quash the same and to direct the respondents to permit the petitioner to work till 31.05.2020 by making reappointment and pay the salary to the petitioner.

For Petitioner : Mr.M. MD. Ibrahim Ali
For Respondent : Mrs.S.Srimathy,
Special Government Pleader

O R D E R

<https://hcservices.ecourts.gov.in/hcservices/> The writ petition has been filed to quash the order



passed by the third respondent in O.M. No.3992/E3/2019, dated 30.06.2019 and also sought for a direction to the respondents to permit the petitioner to work till 31.05.2020 by making reappointment and to pay salary to the petitioner.

2. The learned counsel appearing for the petitioner would submit that the petitioner is working as Mathematics Assistant in the fifth respondent school and she was treated as surplus Teacher to the fifth respondent school on 16.07.2012. He would further submit that now the students strength of the academic year 2018-2019 has been increased to 192 students and therefore, there is no necessity to declare the petitioner as surplus teacher. He would further submit that she attained superannuation and retired from the service on 30.06.2019 and now seeking re-appointment in the School till the academic year 2019-2020 as per G.O.Ms. No.261, dated 20.12.2018 and hence, she has submitted an application to the fourth respondent through the fifth respondent, seeking re-appointment till the end of the academic year, but the third respondent has passed the impugned order on 30.06.2019 stating that the re-appointment is not possible, since the petitioner has been declared as surplus Teacher in the academic year 2018-2019.

3. It is stated in the counter affidavit filed by the third respondent that as on 03.06.2019 the strength of the students is as follows:

Standard VI	..	31
Standard VII	..	40
Standard VIII	..	25
Standard IX	..	57
Standard X	..	39

Thus, there is no strength of 60 students, in anyone of the section to bifurcate them. Based on the strength of the students in fourth respondent school in School only for 5 B.Ts are entitled and one BT teacher is rendered as surplus. Therefore, the petitioner is not eligible for re-employment.

4. Further, the learned Additional Government Pleader has relied upon a decision of this Court, dated 18.01.2018 in W.P.(MD) No.13421 of 2016 and W.M.P.(MD) No.10049 of 2016. The operative portion of the aforesaid order is extracted hereunder:

"4. The reasons assigned in the impugned order are very much tenable. The purpose of granting re-employment to the teachers who retire in the middle of the academic year is to benefit the students. No doubt, the G.O.Ms. No.261 School Education Department, dated 20.12.2018 issued by the Government in this regard confess certain rights to the teachers who retire from service during the



middle of the academic year. But, the said right cannot be perversely applied. In the present case, already 20 teachers have been rendered surplus. Therefore the question of accepting the request of the writ petitioner will not arise.

5. There is no merit in this writ petition. It stands dismissed. No costs. Consequently, connected miscellaneous petition is closed."

5. He would further submit that the Division Bench of this Court has already decided the similar issue in W.A. (MD) No.910, dated 15.12.2010. The operative portion is as follows:

"Further, when there is surplus teachers strength, the Government cannot be compelled to re-employ the appellant and pay salary to him. We do not find any arbitrariness in the rejection of the request of the appellant for re-employment. There is no ground to interfere with the order of the learned Single Judge and accordingly the Writ Appeal is liable to be dismissed."

6. Therefore, in the light of the above order passed by the Division Bench of this Court as well as the decision of this Court cited supra, the petitioner cannot seek for re-employment in the fifth respondent school. By complying the aforesaid decision rendered by this Court, there is no ground to interfere with the impugned order and hence, the impugned order passed by the third respondent is sustainable and the contention of the petitioner is liable to be rejected.

7. With the above observations, this Writ Petition is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

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Sivagangai District.

+1 CC to M/s.MOHAMED IBRAHIM ALI, Advocate (SR-81895[F] dated
16/08/2019)

+1 CC to M/s.SPL GP (SR-82005[F] dated 16/08/2019)

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