



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.19504 of 2019

G.Vijayalakshmi

... Petitioner

-Vs-

1.The Director of Elementary Education,
College Road, Chennai-600 006.

2.The District Educational Officer,
Paramakudi, Ramanathapuram District.

3.The Block Educational Officer,
Paramakudi, Ramanathapuram District.

4.Bharathiar Middle School,
Represented by its Secretary,
Paramakudi, Ramanathapuram District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the third respondent herein to disburse forthwith the monthly salary of the petitioner from 15.07.2019 onwards as per the salary bill re-submitted by the fourth respondent-school, dated 16.08.2019.

For Petitioner : Mr.E.V.N.Siva
For Respondents : Mr.M.Karuppasamy,
Government Advocate.

ORDER

Heard Mr.E.V.N.Siva, learned counsel appearing on behalf of the petitioner and Mr.M.Karuppasamy, learned Government Advocate, who takes notice on behalf of the respondents.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.This Writ Petition is filed for a direction to direct the third respondent to disburse forthwith the monthly salary of the petitioner from 15.07.2019 onwards as per the salary bill re-submitted by the fourth respondent-school, dated 16.08.2019.

4.According to the petitioner, she is working as a Secondary Grade Teacher in the fourth respondent-school and applied for leave on loss of pay from 01.05.2019 to 31.10.2019 (6 months) to visit America to assist her daughter's second delivery. The fourth respondent-school committee granted permission to the petitioner to visit America. The petitioner intimated the same to the third respondent. The



petitioner, even before expiry of the leave granted, joined duty on 15.07.2019 itself, by availing 75 days leave on loss of pay.

5.The learned counsel appearing on behalf of the petitioner contended that the fourth respondent sent intimation about the leave granted to the petitioner and the third respondent returned the same on misconception that the fourth respondent is seeking approval from the Director of Elementary Education. The fourth respondent, by the letter dated 07.06.2019, informed the third respondent that no such permission is required from the Director of Elementary Education, insofar as the private school staff are concerned and the fourth respondent also submitted salary bill, by the letter dated 16.07.2019 and reminder dated 06.08.2019, claiming salary from 15.07.2019. The third respondent returned the salary bill, directing the fourth respondent to submit ratification proposal of the Director of Elementary Education.

6.The learned counsel for the petitioner further contended that the very same issue was considered by this Court in W.P.(MD) No.18040 of 2014 and this Court, by the order dated 06.12.2014, held that there is no employer-employee relationship between the teacher like petitioner and the authority. The school committee is the only authority to sanction leave. The said order was confirmed by the Division Bench of this Court in W.A.(MD)No.251 of 2015, dated 14.07.2015 [**Director of Elementary Education Vs. G.Vijayalakshmi (2015 (6) MLJ 315)**]/ The relevant paragraph Nos.39 and 40 of the said judgment are extracted hereunder:-

"39.Merely because, the petitioner has not obtained sanction of leave from the Director of Elementary Education, Chennai, it cannot be said that there is a violation of the provisions of the Tamil Nadu Recognized Private Schools (Regulation) Act and the Rules framed thereunder and in particular, the Code of Conduct framed in Annexure-II, in terms of Section 21 of the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973, read with Rule 16 of the Rules framed there under. Conditions imposed in the order, dated 30.05.2014, of the Director of Elementary Education, Chennai, can at best be made applicable, only to the extent, within the statutory provisions, to which, the recognized aided schools and the staff therein, are bound to follow. At the risk of repetition, Government orders issued are amendments to rule 24A of the Government Servant Conduct Rules, and not to Tamil Nadu Recognized Private Schools (Regulation) Act, 1973.



Government Servant's Conduct Rules, cannot ipso facto be applied to recognized private schools, by the Director of Elementary Education, by issuing proceedings, on his own, and violation of which, cannot entail disciplinary action, as contemplated in the proceedings of the Assistant Director of Elementary Education, Paramakudi, dated 29.09.2014. As both the orders, dated 29.09.2014 and 24.10.2014, impugned in W.P.(MD)No.18040 of 2014, are based on the proceedings of the Director of Elementary Education, Chennai, rightly they have been set aside by the Writ Court."

7.The above said judgment is squarely applicable to the facts of the present case.

8.In view of the above, this Writ Petition stands allowed, directing the third respondent herein to disburse the monthly salary of the petitioner from 15.07.2019 onwards as per the salary bill re-submitted by the fourth respondent school, dated 16.08.2014, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS)

Myr

To

1.The Director of Elementary Education,
College Road, Chennai-600 006.

2.The District Educational Officer,
Paramakudi, Ramanathapuram District.

3.The Block Educational Officer,
Paramakudi, Ramanathapuram District.

4.The Secretary,
Bharathiar Middle School,
Paramakudi, Ramanathapuram District.

+1 CC to M/s.GP (SR-86618[F] dated 13/09/2019)

+1 CC to M/s.E.V.N.SIVA, Advocate (SR-86691[F] dated 13/09/2019)

W.P. (MD)No.19504 of 2019

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