



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.11621 of 2015

and

M.P. (MD) No.2 of 2015

P.Dharmalingam
Graduate Teacher,
Government Joint School,
Velrampatti, Neerpalani Post,
Viralimalai Union,
Pudukottai District.

... Petitioner

-Vs-

- 1.The District Elementary Education,
Chennai-06.
- 2.The District Collector,
Pudukottai, Pudukottai District.
- 3.The Additional Chief Educational Officer (In-charge),
Sarva Shiksha Abeyan,
Pudukottai, Pudukottai District.
- 4.The District Elementary Educational Officer,
Pudukottai, Pudukottai District.
- 5.The Assistant Elementary Educational Officer,
Viralimalai, Pudukottai District ... Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to regularize the service of the petitioner while recognizing the school as the Panchayat Union Primary School within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mrs.S.Srimathy
Special Government Pleader

ORDER

The relief sought for in the present writ petition is for a direction to direct the respondents to regularize the service of the petitioner while recognizing the school as the Panchayat Union Primary School.

2.The writ petitioner was appointed as Secondary Grade Teacher under Sarva Seva Charity Trust Scheme in Viralimalai Block, Pudukottai District. The initial appointment of the writ petitioner was on temporary basis under the scheme. The order of appointment states that the consolidated salary has been paid to the writ petitioner and the appointment itself was under the scheme through Sarva Seva Charity Trust. Thus, the appointment of the writ petitioner was not made in accordance with the recruitment rules in force by the competent appointment authority of the Education Department. In view of the fact that the initial appointment was not made by the educational authorities in the Education Department, this Court is of the opinion that the benefit of regularisation or permanent absorption cannot be granted, in view of the legal principles settled by the Hon'ble Supreme Court of India, in the case of **Secretary, State of Karnataka and others Vs. Umadevi (3) and others** reported in (2006) 4 Supreme Court Cases 1. However, the learned counsel for the writ petitioner now made a submission that the petitioner would restrict the prayer in respect of the payment of salary to be paid to the writ petitioner. The said submission is reasonable and accordingly, this Court is of the opinion that the salary arrears, if any, is pending must be paid to the writ petitioner by the respondents. However, the benefit of regularisation or permanent absorption cannot be granted, in view of the fact that the writ petitioner was appointed under the Sarva Seva Charity Trust, which is the scheme.

3.Accordingly, the respondents are directed to settle the arrears of salary due to the writ petitioner with reference to the services rendered by him within a period of twelve weeks from the date of receipt of a copy of this order.

4.With this directions, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The District Elementary Education,
Chennai-06.

2.The District Collector,
Pudukottai, Pudukottai District.

3.The Additional Chief Educational Officer (In-charge),
Serva Shiksha Abeyan,
Pudukottai, Pudukottai District.

4.The District Elementary Educational Officer,
Pudukottai, Pudukottai District.

5.The Assistant Elementary Educational Officer,
Viralimalai, Pudukottai District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-77209[F] dated
24/07/2019)

+1 CC to M/s.SPL GP (SR-77307[F] dated 24/07/2019)

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KK/SAR/01.08.2019/3P-8C/