



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.12.2019

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.21331 of 2015

and

M.P(MD)Nos.1 and 2 of 2015

WEB COPY

M.Elda Mary

... Petitioner

vs.

- 1)The State of Tamilnadu,
Rep. by its Secretary,
Department of School Education,
Fort St.George, Chennai-09.
- 2)The Director of School Education,
College Road, Chennai-06.
- 3)The Chief Educational Officer,
Kanyakumari District at Nagercoil.
- 4)The District Educational Officer,
Thuckalay, Kanyakumari District.
- 5)The Correspondent,
St. Ignatius Higher Secondary School,
Kurumpani-629 251,
Kanyakumari District.

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 4th respondent District Educational Officer in Na.Ka.No.4255/Aa2/2012 dated 07.02.2013 declining to approve the appointment of the petitioner as Sewing Mistress (Craft Teacher), quash the same and further direct the 4th respondent District Educational Officer to approve the appointment of the petitioner as Sewing Mistress (Craft Teacher) in the 5th respondent school namely, St. Ignatius Higher Secondary School, Kurumpani, Kanyakumari District w.e.f., 02.04.2012 with all attendant benefits including the arrears of salary and allowance.

For Petitioner : Mr.S.Xavier Rajini

For R1 to R4 : Mr.N.Shanmuga Selvam

Additional Government Pleader

ORDER

The prayer in this writ petition is for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 4th respondent District Educational Officer in Na.Ka.No.4255/Aa2/2012 dated 07.02.2013 declining to approve the appointment of the petitioner as Sewing Mistress (Craft Teacher), quash the same and further direct the 4th respondent District Educational Officer to approve the appointment



of the petitioner as Sewing Mistress (Craft Teacher) in the 5th respondent school namely, St. Ignatius Higher Secondary School, Kurumpani, Kanyakumari District with effect from 02.04.2012 with all attendant benefits including the arrears of salary and allowance.

2. Learned counsel for the petitioner would state that one Tmt.T.Biatrose Mary was working as Sewing Mistress (Craft Teacher) in the 5th respondent school which is a minority educational institution and she retired on 31.05.2005 on attaining the age of superannuation. In the said vacancy, one L.Maria Brose was appointed on 02.06.2005 and her appointment was not approved. While so, on 01.04.2012, she was relieved from the school in order to join in the Government School. In the said vacancy, the petitioner was appointed as Sewing Mistress (Craft Teacher) on 02.04.2012. Thereafter, on 23.08.2012, the 5th respondent school submitted a proposal to the 4th respondent to approve the petitioner's appointment and to disburse grant-in-aid. The 4th respondent by order dated 07.02.2013 declined to approve the petitioner's appointment stating that the post is not the sanctioned post as per the staff fixation order for the academic year 2012-2013. The school resubmitted the proposal to the 4th respondent stating that the post of Sewing Mistress and Craft Teacher are one and the same and the nomenclature of Craft Teacher has been changed as Sweing Mistress with effect from 12.11.2003 and the post is sanctioned to the school from the date of its establishment. Subsequently, though the petitioner approached the 4th respondent and also made representations on various dates, the 4th respondent did not pass any orders. Hence, the petitioner has filed this writ petition challenging the order dated 07.02.2013. In support of his contention that if a person is appointed in a sanctioned post, approval cannot be rejected, learned counsel for the petitioner would rely on the decisions in W.A(MD)No.16 of 2011, dated 25.01.2011 and W.A(MD)No.652 of 2013, dated 31.07.2013.

3. The official respondents filed counter affidavit. Learned Additional Government Pleader would state that approval for the petitioner's appointment was rejected on the ground that as per the staff fixation 2012-2013, Sewing Teacher post was not allowed in the 5th respondent school and the school has not challenged the staff fixation. According to the official respondents, the Sewing Teacher post is left vacant in the 5th respondent school from 2005 and even as per the staff fixation 2011-2012, the school is not sanctioned with Sewing Teacher post and admittedly, the school has sent proposal only on 23.08.2012 and therefore, the claim of the petitioner for approval of her appointment made in the year 2011-2012 is unsustainable. Thus, he would pray for dismissal of the writ petition.

4. Heard both sides.

5. Perusal of record shows that after the said L.Maria Brose was relieved from the school in order to join the Government School, the petitioner was appointed as Sewing Mistress on 02.04.2012 in the academic year 2011-2012 and a proposal was submitted to the 4th



respondent to approve the petitioner's appointment and to disburse the grant-in-aid towards the salary. The 4th respondent declined to grant approval stating that the post is not the sanctioned post as per the staff fixation order for the academic year 2012-2013. Perusal of the staff fixation orders for the years 2011-2012, 2012-2014 and 2014-2015 indicates that the 5th respondent school is eligible for one post of Sewing Mistress and the post is the sanctioned post from the date of establishment of the school. Further, the post of Sewing Mistress and Craft Teacher are one and the same as per Annexure V and V-A of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974 and therefore, there is no reason for the 4th respondent to deny approval to the petitioner's appointment as Sewing Mistress which was made in the sanctioned post and to pay the salary. The decisions relied on by the learned counsel for the petitioner are applicable to the facts of the present case.

6. Therefore, the impugned order passed by the 4th respondent District Educational Officer in Na.Ka.No.4255/Aa2/2012 dated 07.02.2013 is set aside and the 4th respondent is directed to approve the appointment of the petitioner as Sewing Mistress (Craft Teacher) in the 5th respondent school from the date of her appointment and to disburse the salary including the arrears of salary and allowance with all attendant benefits.

With the above direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2020

Sub Assistant Registrar(CS)

Bala

To

1) The Secretary, Department of School Education,
Fort St. George, Chennai-09.

2) The Director of School Education,
College Road, Chennai-06.

3) The Chief Educational Officer,
Kanyakumari District at Nagercoil.

4) The District Educational Officer,
Thuckalay, Kanyakumari District.

+1 CC to M/s.S.XAVIER RAJINI, Advocate (SR-105709[F]

+1 CC to M/s.SPL.GP (SR-106005[F] dated 19/12/2019)

ORDER MADE IN

W.P(MD)No.21331 of 2015

DATED : 17.12.2019

SMA/09/01/2020/3P/7C

<https://hcservices.ecourts.gov.in/hcservices/>