IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.01.2020
CORAM
THE HON'BLE MR.JUSTICE N.ANAND VENKATESH
W.P.No.1922 of 2020 and
WMP Nos.2248 and 2252 of 2020

S.Abiramasundari ... Petitioner

.Vs.

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

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

3. The District Educational Officer,
Office of District Educational Officer,
St. Thomas Mount, Chrompet.

4. The Head Master,
Government Higher Secondary School,
Okkiyam Thuraipakkam,
Chennai 600 007 ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified Mandamus to call for the records relating to the impugned order bearing Na.Ka.No.5150/A3/2019 dated 20.01.2020 issued by the third respondent rejecting the claim of the petitioner for re-employment, and quash the same and consequently, direct the respondents to allow the petitioner for re-employment till the end of academic year 2019-2020.

For Petitioner : Mr.R.N.Amarnath
For Respondents: Mr.A.Raja Perumal
Additional Government Pleader for R1 to R4.

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ORDER

By consent, this writ petition is taken up for final disposal.

2. This writ petition has been filed challenging the impugned proceedings of the 3rd respondent dated 20.01.2020,

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rejecting the claim made by the petitioner for extension of her service, till the end of the academic year.

3. The case of the petitioner is that she was working as a B.T Assistant (Science) in the 4th respondent school. Her superannuation falls on 31.01.2020. Therefore, a representation was made to official respondents to permit the petitioner to continue her service, till the end of the academic year. The said representation was rejected by the impugned order passed by the 3rd respondent. Aggrieved by the same, the present writ petition has been filed before this Court.

4. The learned counsel appearing for the petitioner submitted that the service of the petitioner should be extended till the end of the academic year, by virtue of G.O.Ms.No.261, School Education Department, dated 20.12.2018. The learned counsel further submitted that the 3rd respondent has passed an order rejecting the request made by the 4th respondent school only on the ground that there are surplus teachers, who are available and therefore, they will be posted in the place of the petitioner, after her retirement. The learned counsel submitted that this reason that has been assigned by the 3rd respondent may not be correct, since the 4th respondent school has only seven science teachers for a students strength of 1313. The learned counsel submitted that the petitioner is not a surplus teacher and therefore, her request for extending her service till the end of the academic year must be considered.

5. The learned counsel appearing on behalf of official respondents submitted that by virtue of the order passed by the Division Bench this Court in W.A.No.2611 of 2019 dated 20.09.2019, priority can be given only to surplus teachers to be redeployed in the available vacancy and only in the absence of the same, such approval for appointment and extension of service can be granted. The learned counsel submitted that by virtue of order passed by the Division Bench of this Court, the extension of service as claimed by the petitioner cannot be granted, if surplus teachers are available for redeployment.

6. This Court has carefully considered the submissions made on either side and also perused the materials placed on record.

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7. This Court had an occasion to consider the similar issue in WP No.35254 of 2019 and the following order was passed on 19.12.2019 :-

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4.It is seen that the Division Bench of this Court in W.A.No.2611 of 2019 by an order dated 20.09.2019 has held that priority must be given to the surplus teachers to be redeployed and only in the absence of the same, such approvals for appointment and extension of service can be granted. This was subsequently reiterated by the Hon'ble First Bench of this Court in W.A.No.3951 of 2019 by an order dated 25.11.2019.

5.In view of the above, the respondents can be directed to consider the representation made by the petitioner on 16.12.2019 in the light of the orders passed by this Court.

6.This writ petition is disposed of with a direction to the 3rd respondent to consider the representation made by the petitioner on 16.12.2019 seeking for extending his service till the end of the academic year. If the 3rd respondent does not find any surplus teacher who can be deployed to the Government Higher Secondary School, Thirumanur, Ariyalur District, the claim made by the petitioner for extension of service till the end of the academic year can be considered by virtue of G.O.Ms.No.261, School Education Department, dated 20.12.2018. This process shall be completed within a period of four weeks from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. No Costs.

8. The above order will squarely apply to the facts of the present case. The request made by the petitioner and the 4th respondent school can be considered in the absence of any surplus teacher, who can be deployed in the 4th respondent school. The 3rd respondent has stated in the impugned order that the petitioner is a surplus in the School. However, a stand has been taken to the effect that there are only seven science teachers in the 4th respondent school as against the students strength of 1313. This aspect must also be considered by the 3rd respondent.

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9. In view of the above, there shall be a direction to the 3rd respondent to again reconsider the request made by the petitioner and the 4th respondent school, seeking for extension of service of the petitioner, till the end of the academic year. If the 3rd respondent does not find any surplus teacher, who can be deployed to the 4th respondent school, the claim made by the

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petitioner can be considered by virtue of G.O.Ms.No.261, School Education Department dated 20.12.2018. This process shall be completed within a period of four weeks from the date of receipt of copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

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

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

3. The District Educational Officer,
   Office of District Educational Officer,
   St. Thomas Mount, Chrompet.

4. The Head Master,
   Government Higher Secondary School,
   Okkiyam Thuraipakkam,
   Chennai 600 007

+1cc to Mr.R.N.Amarnath, Advocate sr.6791
+1cc to Government Pleader SR.NO. 7182

W.P.No.1922 of 2020

pvs(co)
nr 30/01/2020

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