

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 17.03.2020

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THE HON'BLE MR. JUSTICE V.PARTHIBAN

Writ Petition No.2768 of 2019

&

W.M.P.No.3037 of 2019

P.Latha Devi

...Petitioner

Vs.

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The Chief Educational Officer,
Thiruvallur District,
Thiruvallur.
3. The District Educational Officer,
Ambattur, Thiruvallur District - 600 053.
4. The Block Educational Officer,
Villivakkam Union,
Thiruvallur District.
5. The Manager & Correspondent,
Nathan Primary School,
Nerkundram, Chennai - 600 107.

...Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of writ of mandamus to direct the respondents 1 to 4 to make the payment of salary to the petitioner in the post of Secondary Grade Teacher in the 5th respondent school from the date of appointment on 23.02.2015 forthwith with all consequential and other attendant benefits including interest for the belated payment of salary based on the order of appointment granted in favour of the petitioner vide proceedings of District Elementary Educational Officer, Thiruvallur in Na.Ka.No.2047/A4/2015 dated 22.05.2015 from the date of initial appointment on 23.02.2015, by considering the representation submitted by the petitioner dated 16.04.2017, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents: Mr.P.Raja,
Government Advocate
(for R.1 to R.4)
No representation for R.5

ORDER

The petitioner qualified with Diploma in Teacher Education (D.T.Ed). She was eligible for appointment to the post of Secondary Grade Teacher and she registered her name in the Employment Exchange. She has also cleared Teacher Eligibility Test (TET).

2.The fifth respondent/School is Aided Religious Minority Institution, governed by provisions of Tamil Nadu Recognized Private Schools (Regulation) Act, 1973 and the rules made thereunder. A vacancy arose in the post of Secondary Grade Teacher due to promotion of the then incumbent Tmt.Chandra Bai on 15.06.2011.

3.After due selection, the petitioner was appointed as Secondary Grade Teacher in the 5th respondent/School in the sanctioned vacancy on 23.02.2015 and she joined the post on the same day. Her appointment as Secondary Grade Teacher was duly approved by the District Elementary Educational Officer, Thiruvallur dated 22.05.2015 from the date of appointment on 23.02.2015. The Service Register has also been opened after appointment, duly countersigned by the Official respondents.

4.This being the fact that the approval has already been granted by the Competent Authority for the appointment of the petitioner as Secondary Grade Teacher with effect from 23.02.2015, the Department has not sanctioned grant-in-aid in respect of the salaries payable to the petitioner and due to this, the petitioner has been made to work since February, 2015 till date without any payments.

5.According to the petitioner, the School Management has already forwarded proposal for payment of salary for her, as admittedly she has been appointed in the regular sanctioned post and also been duly approved by the Department. However, there was no response forthcoming from the Official respondents and therefore the petitioner is before this Court seeking for writ of mandamus directing the respondents 1 to 4 to make the payment of salary to the petitioner in the post of Secondary Grade Teacher in the 5th respondent/school from the date of appointment on 23.02.2015 with all consequential and attendant benefits including interests.

6. On notice, Mr. P. Raja, learned Government Advocate has entered appearance and a counter affidavit has been filed on behalf of the third respondent.

7. The principal objection raised in the counter affidavit is that the 5th respondent/school has not submitted any proposal for releasing of salary right from the year 2015. According to the counter affidavit, the fifth respondent has not responded to the proceedings issued by the fourth respondent in regard to the subject matter and the fifth respondent is also wantonly delaying the submission of required documents in order to process the claim of the petitioner.

8. Mr. G. Sankaran, learned counsel for the petitioner would submit that the fifth respondent for reasons not known to the petitioner has not sent many proposals for payment of salaries payable to the petitioner right from the date of her appointment from February, 2015 and in the absence of any response emanating from the fifth respondent, the petitioner's right of livelihood has been affected for all these years. Although the fifth respondent has been served notice in person, and name of the school has also been printed in the cause-list, there is no appearance on behalf of the fifth respondent. Therefore, he would urge this Court to direct the respondents 3 and 4 to instruct the fifth respondent/school to submit necessary proposal in order to process the claim of the petitioner for payment of salary right from the date of her appointment.

9. Since, the only reason which stated in the counter affidavit filed on behalf of the Official respondent is the non-forwarding of the proposal for the payment of salary to the petitioner, this Court does not think there is any impediment in giving a direction as submitted by the learned counsel for the petitioner.

10. In view of the above, the third and fourth respondents are directed to direct the fifth respondent/School to submit necessary proposal with supportive documents for processing the claim towards payments of salary to the petitioner since the date of her appointment as Secondary Grade Teacher.

11. The respondents 3 & 4 are to direct the fifth respondent/school within a period of two weeks from the date of receipt of copy of this order and on such proposal being received by the authorities, the respondents 3 & 4 are further directed to process the claim towards salaries payable to the petitioner for all these years from 23.02.2015 until the date of payment within a period of four weeks thereafter. In case, the respondents 3 & 4 have any difficulty in receiving any proposal

from the fifth respondent/School the respondents are at liberty to take action against the school under the provisions Tamil Nadu Recognized Private Schools (Regulation) Act, 1973.

12. Accordingly, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition stands closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mrn

To

1. The Director of Elementary Education,
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Chennai - 600 006.
2. The Chief Educational Officer,
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RSI (CO)
GS(06/08/2020)