

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 14.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.3646 of 2020
and
W.M.P.No.4292 of 2020

G.Vellivel

...Petitioner

Vs

- 1.The Director of School Education,
DPI Campus, College Road,
Chennai - 600006.
- 2.The Chief Educational Officer,
Nagapattinam District,
Nagapattinam.
- 3.The District Educational Officer,
Nagapattinam Educational District,
Nagapattinam.
- 4.The Secretary,
National Higher Secondary School,
Nagapattinam - 611001.

5.G.Vimala

...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 issued by the 3rd respondent in Na.Ka.No.5208/Aa3/2019 dated 26.11.2019 and to quash the same and consequently directing the respondents to grant re-employment to the petitioner in the post of P.G.Assistant (Commerce) till the end of the academic year 2019-2020 in the 4th respondent School with all consequential and other attendant benefits including salary for the unserved period from 01.07.2019, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents: Mrs.V.Annalakshmi
Government Advocate
for R1 to R3

O R D E R

This writ petition has been filed challenging the impugned proceedings of the third respondent dated 26.11.2019 rejecting the claim made by the petitioner for re-employment in the fourth respondent School till the end of the academic year.

2.The case of the petitioner is that she joined the fourth respondent School in the year 2004 and she was working as a P.G. Assistant. The superannuation of the petitioner fell on 30.06.2019. The petitioner made a representation to the fourth respondent seeking to provide re-employment till the end of the academic year, i.e., upto 31.05.2020. This claim was made based on G.O.Ms.No.1369, dated 25.08.1973. In the mean time, the fourth respondent School Committee had promoted the fifth respondent in the place of the petitioner and a proposal was also sent to the third respondent seeking for approval. The petitioner also made a representation to the second and third respondents seeking for re-employment. The third respondent, by his proceedings dated 26.11.2019, has rejected the claim made by the petitioner on the ground that the fifth respondent has already been appointed in the place of the petitioner and the same has been sent for approval to the third respondent and therefore, the request made by the petitioner cannot be entertained. Aggrieved by the same, the present writ petition has been filed before this Court.

3.Mr.G.Sankaran, learned counsel appearing on behalf of the petitioner submitted that G.O.Ms.No.1369, dated 25.08.1973 provides a right for the teacher to be employed till the end of the academic year and this right has been recognized by this Court in a catena of decisions. The learned counsel submitted that the petitioner has rendered meritorious service and there are 136 students who are now going to face the 12th examination and they were trained by the petitioner and if the petitioner is relieved, it will have a negative impact on the interest of the students. The learned counsel submitted that the fourth respondent School wanted to somehow push the candidature of the fifth respondent, who is a relative and thereby the petitioner has been deprived of her right to be considered for re-employment till the end of the academic year.

4.Per contra, Mrs.V.Annalakshmi, learned Government Advocate appearing for the respondents 1 to 3 submitted that the superannuation of the petitioner fell on 30.06.2019. In the mean time, the fourth respondent School has already forwarded the proposal for approval of the promotion of the fifth respondent in the post that was held by the petitioner. Therefore, the third respondent had rightly rejected the claim made by the petitioner to continue her services till the end of the academic year.

5.This Court has carefully considered the submissions made on either side and the materials available on record.

6.In the present case, the petitioner was due for retirement on 30.06.2019. This cannot be really considered to be the middle of the academic year and at the best, it can only be taken as the beginning of the academic year 2019-2020. That apart, it is also not the case that there was no other teacher available to replace the petitioner. The fourth respondent School had already promoted the fifth respondent to the post held by the petitioner and the proposal for approval of promotion was also pending before the third respondent. In the mean time, the fifth respondent had also taken charge as P.G. Assistant. Therefore, the third respondent was perfectly right in rejecting the claim made by the petitioner. It is true that G.O.Ms.No.1369, dated 25.08.1973 provides for a consideration to extend the services of the teacher till the end of the academic year. However, this right will have to be considered by taking into account the facts and circumstances of each case. The petitioner ceases to be P.G. Assistant from 30.06.2019 and the fifth respondent has already taken charge and therefore, there is no question of re-employing the petitioner till the end of the academic year. This Court does not find any ground to interfere with the impugned proceedings of the third respondent dated 26.11.2019 and accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

hvk

To

1.The Director of School Education,
DPI Campus, College Road, Chennai - 600006.

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

3.The District Educational Officer,
Nagapattinam Educational District, Nagapattinam.

4.The Secretary,
National Higher Secondary School,
Nagapattinam - 611001.

+1cc to Mr.G.Sankaran , Advocate SR.No. 12823

+1 cc to Government Pleader Sr.No. 13050

W.P.No.3646 of 2020

and

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