



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2020

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.5012 of 2012

Mrs.K.Vijayakumari

.. Petitioner

Vs.

1. The Joint Director,
Department of Elementary Education,
O/o.Department of Elementary Education,
College Road, Chennai - 6.

2. The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

3. The District Educational Officer,
Kulithurai, Having Office at
Marthadandum,
Kanyakumari District.

4. The Correspondent,
Pious XI Higher Secondary School,
Thoothur, Kanyakumari District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings in O.Mu.No.10623 A2/2010, dated 01.12.2010 on the file of the 3rd respondent and quash the same as illegal and consequently to direct the respondents to approve the appointment of the petitioner from 05.06.2000 to 05.10.2006 within the time stipulated by this Court and pass such further or other orders.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents 1 to 3 : Mr.N.Shanmugaselvam,
Additional Government Pleader.

For Respondent No.4 : No appearance



ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings in O.Mu.No.10623 A2/2010, dated 01.12.2010 on the file of the 3rd respondent and quash the same as illegal and consequently direct the respondents to approve the appointment of the petitioner from 05.06.2000 to 05.10.2006.

2.The case of the petitioner is that the petitioner was appointed as Tamil Pandit on 03.06.1991 in the 4th respondent school on the promise that as and when regular vacancy arises, she would be posted in the said post. On 31.05.2000, one Mr.R.Enose, who was working as Tamil Pandit, was retired and she was posted in the said sanctioned post and also issued with the appointment order, by the 4th respondent as a Probationary Teacher (Tamil Pandit) in the said vacancy. But, necessary proposal was not sent for approval. Thereafter, the present Correspondent was appointed, as the then correspondent of the 4th respondent school renounced his post, owing to certain administrative difficulties and her appointment was treated as new appointment with effect from 06.10.2006 and approval was obtained only from 06.10.2006, whereas she was appointed as early on 05.06.2000 in the regular sanctioned vacancy. Therefore, she made a representation dated 07.07.2010 to the 4th respondent seeking for approval of her appointment from 05.06.2000 to 05.10.2006, upon which, the 4th respondent sent a proposal, dated 15.11.2010, to the 3rd respondent. But, the 3rd respondent rejected the same on the ground that the petitioner's signature in the attendance register for the said period was found in the unsanctioned teachers list. Against which, the present writ petition has been filed.

3.The learned counsel for the petitioner submitted that the petitioner has been appointed in the vacancy arose due to the retirement of one R.Enose on 05.06.2000 and due to administrative reasons, proposal was not sent, in time. The impugned order was passed in respect of two persons including the petitioner and the another staff, namely, B.Latha Mangesh, has challenged the impugned order, by way of filing W.P(MD)No.650 of 2012 and this Court set aside the impugned order in respect of the said B.Latha Mangesh and also directed the respondents to approve her appointment, as School Assistant for the period from 07.06.1999 to 05.10.2006, against which, the respondents filed W.A(MD)No.927 of 2016 and the same was also dismissed. The petitioner would also stand on the same footing. Thus, he prayed to quash the impugned order in respect of the petitioner also.

4.The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that the petitioner would also stand on the same footing to that of one B.Latha Mangesh, School Assistant.



5.Despite notice being served on the 4th respondent and his name is being printed in the cause list, there is no representation on behalf of the 4th respondent either in person or through counsel.

6.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 3 and perused the materials available on record.

7.Perusal of records shows that the petitioner was posted as Tamil Pandit in the 4th respondent school, in the vacancy arose due to the retirement of one Mr.R.Enose, on 05.06.2000 and the said post is a sanctioned one. Due to renouncement of the then Correspondent, proposal was not sent for approval in time. Thereafter, the present Correspondent sent proposal and approval was granted only from 06.10.2006. On the representation made by the petitioner, the 4th respondent sent proposal dated 15.11.2020 seeking approval of appointment from 05.06.2000 to 05.10.2006. But, the 3rd respondent rejected the same on the ground that the petitioner's signature in the attendance register for the said period was found in the unsanctioned teachers list. But, the impugned order passed in respect of the another staff, viz., B.Latha Mangesh, School Assistant, was set aside, vide order, dated 07.11.2014 made in W.P (MD)No.650 of 2012 and the writ appeal filed against the same, was also dismissed and her appointment, as School Assistant for the period from 07.06.1999 to 05.10.2006, was approved. The petitioner also stands on the same footing to that of B.Latha Mangesh. Therefore, following the same, this Court is inclined to interfere with the impugned order. Accordingly, the impugned order, dated 01.12.2010 passed by the 3rd respondent, in respect of the petitioner, is quashed and the 3rd respondent is directed to approve the appointment of the petitioner from 05.06.2000 to 05.10.2006 and pay the monetary benefits, within a period of twelve weeks from the date of receipt of a copy of this order. The writ petition is allowed accordingly. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1. The Joint Director,
Department of Elementary Education,
O/o.Department of Elementary Education,

<https://hcservices.courts.gov.in/Rcservices/> Chennai - 6.



2. The Chief Educational Officer,
Nagercoil,
Kanyakumari District.

3. The District Educational Officer,
Kulithurai, Having Office at
Marthandum,
Kanyakumari District.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-9152[F] dated 28/02/2020)

SMN

TE : 18/03/2020 : 4P/5C

ORDER MADE IN
W.P (MD) No.5012 of 2012
26.02.2020