



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.7407 of 2013

and

M.P.(MD)No.3 of 2013

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A.Gnanaselvi

... Petitioner

-Vs-

1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Department of School Education,
Fort St. George, Chennai.

2.The Director of School Education,
E.V.K. Sampath Maligai,
D.P.I. Campus, Chennai.

3.The District Elementary Educational Officer,
Trichy.

4.The Assistant Elementary Educational Officer,
Thiruverumbur, Trichy District.

5.BHEL Tamil Medium Middle School,
Rep. by its Secretary,
Kailasapuram, Trichy-620 014.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent in Manthanam Ko.No.1/Ma. Tho.Ka./2012, dated 30.11.2012, quash the same and direct the respondents 2 and 3 to approve the appointment of the petitioner from the date of her appointment i.e. 27.03.2002.

For Petitioner

: Mr.M.Saravanan

For Respondents

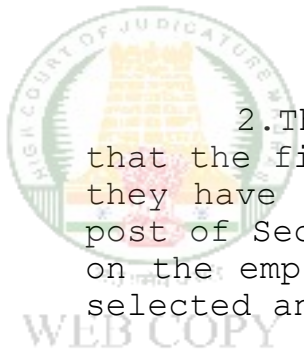
: Mrs.S.Srimathi

Special Government Pleader
(for R1 to R4)

No Appearance (for R5)

ORDER

The impugned order, dated 30.11.2012, states that the petitioner was appointed by mistake without following the communal rotations as per the Government Orders in force. Thus, the petitioner is constrained to challenge the said order.



2.The learned counsel for the petitioner made a submission that the fifth respondent school is an Aided Non-Minority School and they have issued a recruitment notification for appointment to the post of Secondary Grade Teacher and an interview was conducted based on the employment seniority of the petitioner. The petitioner was selected and appointed on 27.03.2002 and was working in the school.

3.The learned counsel for the petitioner contended that the petitioner was appointed in a sanctioned post and on regular basis. The school followed the communal rotation also and five vacancies notified during the relevant point of time, were filled up as per the Government Orders in force. The school sent proposal for approval of appointment of the petitioner along with other teachers. Three appointments were already approved and the approval proposal of the petitioner was not considered on the ground that the communal rotations was not followed. However, the school submitted their explanation stating that the communal rotation was rightly followed as per the Government Order. Accepting the said position, the competent educational authorities granted approval of appointment of the petitioner in proceedings Na.Ka.No.684/A1/2002, dated 20.11.2002. The approval was granted with effect from 11.12.2002. The grievance of the writ petitioner is that she is entitled for approval of appointment with effect from 27.03.2002 and the delay caused resulted in denial of her promotional opportunity on par with the other candidates, who were appointed along with her.

4.The counter affidavit filed by the third respondent/District Elementary Educational Officer, reveals that the appointment of the petitioner was approved with effect from 11.12.2002 in proceedings, dated 20.11.2002. The reason stated is that one Smt.T.Meenakshi was appointed and BC category is concerned, one Smt.P.Sridevi was appointed. In view of the fact that both the appointments were made on 11.12.2002, the appointment of the petitioner was also approved from 11.12.2002. Contrarily, the writ petitioner was actually appointed on 27.03.2002 and as on the date of her appointment, the sanctioned post was vacant. The appointments of Smt.T.Meenakshi and Smt.P.Sridevi are no way connected with the appointment of the petitioner. The appointment of the petitioner was based on the selection conducted and the communal rotation was followed and the respondent department also accepted the contention of the school and accordingly, granted approval. In such circumstances, while granting approval, it must be given from the date of appointment in view of the fact that the individual concerned/petitioner is not responsible nor committed any mistake in the matter of approval of appointment. In view of the administrative delay and considering the proposal, the teachers who were actually working from the date of appointment cannot be denied the benefit of approval from the date of initial appointment. Once the appointment is validated for want of certain particulars or qualification, then, the approval must be granted from the date of appointment and not from the date on which, in respect of other



three persons were appointed along with the petitioner. The approval of appointment were given from their initial date of appointment. While so, the petitioner cannot be discriminated and the same benefit of approval of appointment from the date of appointment is to be extended to the petitioner also.

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5.This being the facts and circumstances established, the impugned order passed by the third respondent, in Manthanam Ko.No.1/Ma. Tho.Ka./2012, dated 30.11.2012, is quashed and the respondents are directed to grant approval of appointment of the petitioner with effect from her date of appointment on 27.03.2002 as per the proposal submitted by the school concerned. The said exercise is directed to be done within a period of twelve (12) weeks from the date of receipt of a copy of this order.

6.Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj

To

1.The Principal Secretary,
Government of Tamil Nadu,
Department of School Education,
Fort St. George, Chennai.

2.The Director of School Education,
E.V.K. Sampath Maligai, D.P.I. Campus, Chennai.

3.The District Elementary Educational Officer, Trichy.

4.The Assistant Elementary Educational Officer,
Thiruverumbur, Trichy District.

+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-23772[F] dated 03/12/2020)

+1 CC to M/s.SPL GP (SR-23869[F] dated 03/12/2020)

W.P. (MD) .No.7407 of 2013
01.12.2020

NA (CO)

KB(14.12.2020) 3P 7C