



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.03.2020

CORAM

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

WEB COPY

W.P(MD)No.2055 of 2020
and
W.M.P(MD)Nos.1728 to 1730 of 2020

C.Challathai

.. Petitioner

Vs.

1. The Director of School Education,
D.P.I.Campus, College Road,
Nungambakkam, Chennai-600 006.
2. The Chief Educational Officer,
Tirunelveli, Tirunelveli District.
3. The District Educational Officer,
Valliyoore, Tirunelveli District.
4. The Headmaster,
Government High School,
Shanmugapuram,
Thisaiyanvilai Post,
Tirunelveli District-627 657.

.. 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 order passed by the second respondent in O.Mu.No.9117/Aa2/2019, dated 29.01.2020, quash the same and direct the respondents 2 to 4 to grant re-employment to the petitioner from 01.02.2020 to till the end of academic year i.e. 31.05.2020.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.A.Thiagarajan

Government Advocate

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the second respondent in O.Mu.No.9117/Aa2/2019, dated 29.01.2020 and quash the same and also direct the respondents 2 to 4 to grant re-employment to the petitioner from 01.02.2020 to till the end of academic year i.e.

31.05.2020



2.Mr.A.Thiyagarajan, learned Government Advocate takes notice for the respondents. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3.The case of the petitioner is that the petitioner was appointed as B.T. Assistant (History) in Government High School, Marunthalai, Pudukkottai District and she joined the service on 08.10.2007. Thereafter, on 26.07.2012, she was transferred to the 4th respondent school. Now, she was due for retirement on 31.01.2020. In the said circumstances, she sent an application on 06.11.2019, seeking for re-employment from 01.02.2020 to 31.05.2020 to the 4th respondent school authorities and the 4th respondent forwarded a proposal to the second respondent on 07.11.2019. The same was rejected by the second respondent, vide order, dated 29.01.2020 with the reasoning that surplus teachers are available. That order is under challenge in this writ petition.

4.The learned Additional Government Pleader appearing for the respondents would submit that there are surplus of teachers in the school and therefore re-employment of the petitioner has not been approved.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

6.Whether re-employment till the end of academic year can be declined on the ground of availability of excess teacher is the issue to be considered.

7.Similar issue was considered by this Court in W.A(MD)No.928 of 2019, dated 10.09.2019, wherein at paragraph - 7, it has been held as follows:

"... .. 7.The learned Special Government Pleader is right in her submission that no teacher can claim re-employment as a matter of right or in other words, there is no vested right for a teacher to claim re-employment till the end of the academic year. However, it is a practice, which has been followed by the Educational Department in the State of Tamil Nadu from time memorial to continue the services of a teacher till the end of the academic year bearing in mind the interest and welfare of the students. Re-employment was denied, where a teacher suffers delinquencies, lost the confidence of the management, the teachers and the students etc. The reason assigned by the second appellant/second respondent in the order impugned in this writ petition, is absolutely not justified and that could not have a reason to deny re-employment".

8.The dictum laid down by this Court in the above said decision, is squarely applicable to the facts of the present case.



9. In view of the above, the writ petition is allowed and the impugned order dated 29.01.2020, passed by the second respondent in O.Mu.No.9117/Aa2/2019, is set aside and the respondents 1 to 3 are directed to approve the proposal sent by the fourth respondent for re-employment of the petitioner from 01.02.2020 to 31.05.2020 i.e., till the end of the Academic year and to pay all monetary benefits, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1.The Director of School Education,
D.P.I.Campus, College Road,
Nungambakkam, Chennai-600 006.

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

3.The District Educational Officer,
Valliyoor, Tirunelveli District.

4.The Headmaster,
Government High School,
Shanmugapuram,
Thisaiyanvilai Post,
Tirunelveli District-627 657.

+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-10637[F] dated 09/03/2020)

+1 CC to M/s.SPL.GP (SR-10770[F] dated 10/03/2020)

**ORDER MADE IN
W.P (MD) No.2055 of 2020
09.03.2020**

PU(06/05/2020) 3P 7C