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W.P.(MD)NO.12893 OF 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.12893 of 2019

A.K.Sylvia Catherine

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Secretariat,
Chennai.
2. The Director of School Education,
DPI Compound, College Road,
Chennai.
3. The Chief Educational Officer,
Tirunelveli District, Tirunelveli.
4. The District Educational Officer,
Tenkasi, Tirunelveli District.
5. The Correspondent,
A.G.High School, Kanakapilai Valasai,
Ilatur Post, Tenkasi Taluk,
Tirunelveli District.

... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pursuant to the impugned rejection order passed by the 4th respondent Aa.Thi.Mu. No.1263/AA4/2018 dated 10.05.2018, quash the same and consequently direct the respondents to approve the petitioner appointment with effect from 01.03.2012 and disburse arrears of salary and all other service and monetary benefit such as yearly increment, medical leave & earn leave etc., forthwith.

For Petitioner : Mr.S.Chellapandian

For R-1 to R-4 : Mr.S.Shaji Bino,
Special Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The post of secondary grade teacher fell vacant in the fifth respondent school following the retirement of the incumbent. The fifth respondent is a Christian minority institution. The writ petitioner was appointed as B.T.Assistant on 01.03.2012. By virtue of G.O.(Ms)No.79 School Education



Department, dated 14.06.2002, one post of secondary grade teacher fell vacant and it has been converted into the post of B.T.Assistant. The school management submitted a proposal to the fourth respondent seeking approval of appointment. The proposal was returned in September 2016. The ground for not accepting the proposal was that the petitioner did not possess TET qualification. Thereafter the petitioner filed W.P.(MD) No.18718 of 2016 and the order dated 30.09.2016 was passed in favour of the petitioner. Thereafter, the post of secondary grade teacher was converted into B.T.Assistant (Science) post on 20.06.2017. Approval of the petitioner's appointment was made on 29.06.2017 with effect from the date when the conversion was made on 20.06.2017. Thereafter, the school management submitted a proposal seeking approval from the date of the petitioner's appointment on 01.03.2012 and the same was rejected by the impugned communication. Challenging the same, the present writ petition has been filed.

3. The learned Special Government Pleader submitted that the impugned order does not call for any interference.



4. I am not able to accept the aforesaid contention of the learned Special Government Pleader. In fact, the issue on hand is no longer *res integra*. It is squarely covered by the Judgment dated **14.08.2020** made in **W.A.(MD)No.201 of 2020**. Paragraph Nos.10 and 16 of the judgment are relevant and they read as follows:-

“ 10. A Division Bench of this Court, in the judgment dated 14.11.2017 passed in W.A(MD)No.1350 of 2017 [The Government of Tamil Nadu, rep., by the Secretary to Government, Department of School Education, Fort St. George, Madras – 600 009 and others V. J.Remila and another reported in 2018 (1) WLR 410], has considered the scope of G.O.Ms.No.79, School Education Department, dated 14.06.2002 (referred to above) and also the stand of the second respondent as to the non-necessity for obtaining prior permission from the concerned authority for conversion of the post of Secondary Grade Teacher to B.T., Assistant and that the second respondent is a recognised minority institution and found that the only issue that arose for consideration is, whether without



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obtaining prior permission for conversion of post from the appellants/ official respondents, the appointment of the first respondent made by the second respondent as B.T. Assistant (Social Science) is in order?

16.

(i) The Director of School Education, College Road, Chennai – 6 and others v. S.Vanitha and others [W.A.(MD) Nos.828 of 2014 and 129 to 132 of 2015, decided on 22.04.2016], wherein at paragraph 11, it is observed as follows:

' 11. In view of the above consistent decisions of this Court on the issue, we are of the view that the issue is no more *res integra*. As rightly contended by the learned counsel for the 1st respondent/teachers, approval has to be granted only from the date of appointment and not from a later date, namely, from the date on which permission for post conversion was granted.' "

5. The case on hand is identical. Respectfully



following the aforesaid judgment, the impugned order is quashed. Respondents 1 to 4 are directed to approve the petitioner's appointment as B.T.Assistant (Science) in the fifth respondent school with effect from 01.03.2012. The salary arrears and other benefits will also be disbursed. Such exercise will be completed within a period of twelve weeks from the date of receipt of a copy of this order. This writ petition stands allowed. No costs.

16.09.2022

Index : Yes / No

Internet : Yes/ No

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To:

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G.R.SWAMINATHAN,J.

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