



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.15461 of 2014

and M.P.(MD)Nos.2 and 3 of 2014

The Correspondent
The Salvation Army Higher
Secondary School,
Vetturnimadam, Nagercoil
Kanyakumari District 629 003.

... Petitioner

-Vs-

1.The Director of School Education
College Road, Chennai-600 009.

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

3.The District Educational Officer,
Nagercoil, Kanyakumari District.

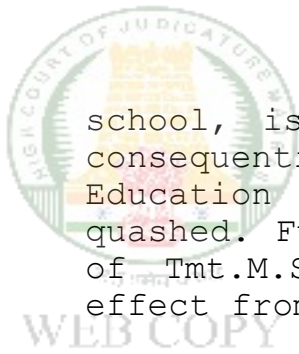
... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Staff Fixation order issued by the third respondent CEO vide his proceedings in Mu.Mu.No.6443/AA1/2013, dated 03.10.2013 for the academic year 2013-2014, rendering one post of Physical Education Teacher as surplus and the consequential proceedings issued by the second respondent Director of School Education in Na.Ka.No.68160/D1/E4/2013, dated 21.02.2014, resuming one post of Physical Education Teacher from the petitioner school quash the same further direct the third respondent to approve the appointment of Tmt.M.S.Angel Merlin Joy as Physical Education Teacher w.e.f. 04.06.2012 with salary and all attendant benefits.

For Petitioner	: Mr.H.Thayumanasamy
For Respondents	: Mr.J.Gunaseelanmuthiah
	Additional Government Pleader

ORDER

The proceedings of the Chief Educational Officer, dated 03.10.2013, regarding the sanctioning of post in the petitioner's
<https://hcservices.ecourts.gov.in/hcservices/>



school, is under challenge in the present writ petition and the consequential order, dated 21.02.2014, issuing one post of Physical Education Teacher in the petitioner's school, is sought to be quashed. Further direction is sought for to approve the appointment of Tmt.M.S.Angel Merlin Joy as Physical Education Teacher with effect from 04.06.2012.

2.The learned counsel appearing on behalf of the writ petitioner mainly contended that Tmt.M.S.Angel Merlin Joy was appointed as Physical Education Teacher with effect from 04.06.2012 by the Management and during the relevant point of time, adequate strength of students were admitted in the petitioner's school. Based on the strength of the students, during the year 2012, the said teacher, Tmt.M.S.Angel Merlin Joy was appointed. The Physical Education Teacher was appointed in a sanctioned post and there was no illegality in the initial appointment. Thus, the respondents ought to have approved the appointment of the said Physical Education Teacher, Tmt.M.S.Angel Merlin Joy. Contrarily, the authorities have assumed only one post of Physical Education Teacher in the petitioner's school and not granted the approval of appointment of Tmt.M.S.Angel Merlin Joy as Physical Education Teacher. Thus, the petitioner's school has constrained to file the present writ petition.

3.The learned counsel appearing on behalf of the writ petitioner reiterated that once a teacher is appointed by the management in a sanctioned post and during the relevant point of time, the adequate students were admitted in the school, then, the authorities have no option, but to grant approval of appointment of the said teacher. Contrarily, in the said proposal, the respondents 1 and 2 had not considered the case of the Physical Education Teacher for grant of approval. Subsequent fall in number of students would not affect the appointment already made. The initial appointment of the said Physical Education Teacher was in accordance with the Government Order issued in G.O.Ms.No.525, School Education (D1) Department, Dated 29.12.1997 and therefore, the writ petition is to be allowed.

4.The learned Additional Government Pleader appearing on behalf of the respondents opposed the said contention by stating that there was no sufficient students strength to sanction the second post of Physical Education Teacher. Already one post of Physical Education Teacher was sanctioned in the petitioner's school and one teacher is working and receiving the Government salary. Thus, in the absence of adequate number of students, the appointment of the second Physical Education Teacher cannot be approved at all. As per the G.O.Ms.No.525, School Education (D1) Department, Dated 29.12.1997, when the strength of students in classes VI to X in the High Schools exceeds 250, one post of Physical Education Teacher will be sanctioned and for every additional strength of 300 students, one additional post of Physical Education Teacher will be



sanctioned subject to a maximum of three Physical Education Teacher.

5. Even in Paragraph No.8, it is stipulated that those who may be rendered surplus due to application of these norms as far as possible to be re-employed to the needy schools. Both the circumstances, does not arise as far as the petitioner's school is concerned. The Additional Government Pleader brought to the notice of this Court that 251 students alone are admitted in the petitioner's school as per the inspection report of the educational authority. One physical education teacher is already working and the appointment was approved. Therefore, the school is not entitled for any adequate post of Physical Education Teacher as per the Government policy issued in G.O.Ms.No.525, School Education (D1) Department, Dated 29.12.1997. The Government Policy in this regard, is unambiguous that only in the event of additional students of 300, then alone another post can be approved and not otherwise.

6. This Court is of the considered opinion that mere appointment by the management in a school is insufficient. Even in case, the sanctioned post was available during the particular academic year and there was a fall of admission in the next academic year before approval of appointment of any such teachers, then, approval cannot be granted and granting approval is subject to the inspection report as well as the post sanctioned based on the students strength and by the Chief Educational Authorities. It is not as if, the private management school can enter in appointing the teachers post on one year students strength and after appointment, the Government salary is to be paid. If such appointments are allowed to continue, it will create heavy financial burden to the Government and the Government must be cautious in approving the appointment of the teachers in view of the fact that the teachers became permanent Government servants and they are coming under the pensionable services. Therefore, all the circumstances and factors are to be carefully considered and the normal admission in the school maintained is also to be considered with reference to the inspection report of the Chief Educational Authorities. If the authorities granted approval of appointment in a routine manner, the same would affect the financial condition and the State and it is essential that the tax payers money is to be utilised properly and judiciously. Thus, the appointment of approval is to be granted keeping in mind that the teachers became permanent government employees and accordingly, suitable orders are to be passed only in accordance with the Government policy and assessing the facts and circumstances approving in the schools with reference to various aspects including the students strength.

7. This being the factum, this Court is of the considered opinion that the petitioner's school is not having adequate students strength so as to consider the grant of approval of appointment of the Physical Education Teacher Tmt.M.S.Angel Merlin Joy. Thus, the reasons stated by the respondents regarding the grant of approval



are in consonance with the Government policy issued in G.O.Ms.No.525, School Education (D1) Department, Dated 29.12.1997 and therefore, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj

To

- 1.The Director of School Education
College Road, Chennai-600 009.
- 2.The Chief Educational Officer,
Nagercoil, Kanyakumari District.
- 3.The District Educational Officer,
Nagercoil, Kanyakumari District.

+1 CC to M/s.SPL GP (SR-23105[F] dated 27/11/2020)

W.P. (MD) .No.15461 of 2014
26.11.2020

PM(CO)
KB(10.12.2020) 4P 5C