



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2020

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

W.P(MD)No.4554 of 2015

and

M.P(MD)No.1 of 2015

A.Johnson Selvakumar

.. Petitioner

Vs.

- 1.The State of Tamil Nadu
rep. by its Principal Secretary to Government,
School Education Department,
Fort St. George, Chennai.
 - 2.The Director of Elementary Education,
College Road, Chennai.
 - 3.The District Elementary Educational Officer,
Tirunelveli District.
 - 4.The Additional Assistant Elementary Educational Officer,
Kalakadu Range, Kalakadu Post,
Tirunelveli District.
 - 5.The Correspondent,
C.M.S. Eva Schools,
Idayankulam & Kandithankulam Pastorates,
At Panankulam, Nanguneri Taluk,
Tirunelveli District.
- .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the respondents to approve the appointment of the petitioner as Secondary Grade Teacher from 03.07.2000 and to pay the salary from 03.07.2000 to 31.03.2004 to the petitioner and confer all the consequential benefits and pass such further or other orders.

For Petitioner : Mr.M.Saravanakumar

For Respondents : Mr.N.Shanmugaselvam,
1 to 4 Special Government Pleader.

For Respondent No.5 : No appearance



ORDER

This writ petition has been filed for issuance of a Writ of Mandamus to direct the respondents to approve the appointment of the petitioner as Secondary Grade Teacher from 03.07.2000 and to pay the salary from 03.07.2000 to 31.03.2004 to the petitioner and confer all the consequential benefits.

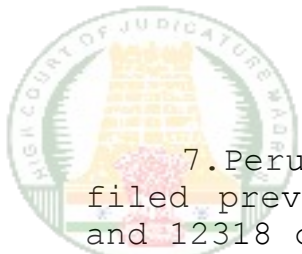
2.The case of the petitioner is that the petitioner was appointed as Secondary Grade Teacher in the 5th respondent school in the existing vacancy on 03.07.2000. The 5th respondent school also sent proposal for the approval of appointment of the petitioner, to the 3rd respondent. The Assistant Elementary Educational Officer, Cheranmahadevi, by his proceedings, dated 04.09.2000, requested the respondents 3 and 4 to approve the appointment of the petitioner with effect from the date of initial appointment, i.e., 03.07.2000. But, the 3rd respondent, by his proceedings, in Na.Ka.No.7282, dated 09.11.2004, approved the appointment of the petitioner and granted monetary benefits only from 01.04.2004. Therefore, the petitioner has come up with the present writ petition.

3.The learned counsel for the petitioner submitted that the petitioner was appointed as Secondary Grade Teacher on 03.07.2000, but the petitioner's appointment was approved with effect from 01.04.2004. The petitioner has been working right from the date of his appointment, i.e., 03.07.2000 as against the existing vacancy. The 3rd respondent ought to have approved the appointment of the petitioner with effect from 03.07.2000. Thus, he prayed to allow the writ petition.

4.The learned Additional Government Pleader appearing for the respondents 1 to 4 drawing the attention of this Court to paragraph No.3 of the counter affidavit, submitted that the 5th respondent instead of transferring one of the surplus teachers working in other schools under its management, had appointed the petitioner through direct recruitment and had committed irregularity and therefore, the salary was paid only from the date of approval.

5.Heard the learned counsel appearing for the petitioner, learned Additional Government Pleader appearing for the respondents 1 to 4 and perused the materials available on record.

6.It is not in dispute that the petitioner was appointed as Secondary Grade Teacher in the 5th respondent school in the existing vacancy on 03.07.2000. The 5th respondent school also sent proposal to the 3rd respondent seeking approval of the appointment. But, the 3rd respondent, by his proceedings, in Na.Ka.No.7282, dated 09.11.2004, approved the appointment of the petitioner and granted monetary benefits only from 01.04.2004.



7.Perusal of record shows that in a batch of writ petitions filed previously in W.P(MD)Nos.19821 of 2003, 11443, 12095, 12317 and 12318 of 2005, the same contention was raised by the respondents that the corporate management which maintains several schools is under obligation to transfer the teachers who were rendered surplus after refixation of staff strength from the schools where they are rendered surplus to the vacancies available in other schools under its management and instead of transferring the surplus teachers from the other schools, fresh recruitment was made which was not accepted by this Court in the earlier writ petitions. Therefore, I am not inclined to accept the contention of the respondents.

8.An identical issue came up for consideration before this Court in W.P.No.16383 of 2000 and this Court, vide order dated 03.11.2008, directed the respondents therein to approve the appointment of the petitioner therein with effect from the date of initial appointment and to grant all monetary benefits. The respondents also implemented the said order of this Court in G.O. (3D)No.117, School Education Department, dated 11.09.2012. Further, one E.Jeya Sekar Elisha, who is the colleague of the petitioner, filed W.P(MD)No.57 of 2013 seeking approval of appointment from the date of initial appointment and this Court, vide order, dated 19.01.20015, directed the respondents to approve the appointment with effect from the date of initial appointment and also directed to pay the salary from the date of initial appointment. Now the law is well settled that if a teacher is appointed in a sanctioned existing vacancy, appointment has to be approved from the date of appointment. Since the petitioner was appointed as Secondary Grade Teacher in the existing vacancy, the 4th respondent ought to have approved the appointment of the petitioner as Secondary Grade Teacher from the date of his initial appointment. Therefore, the 4th respondent is directed to approve the appointment of the petitioner as Secondary Grade Teacher with effect from 03.07.2000 and also directed to pay the monetary benefits from the said date, 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. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

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/ /2020

Sub Assistant Registrar(CS)



To

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

2.The Director of Elementary Education,
College Road, Chennai.

3.The District Elementary Educational Officer,
Tirunelveli District.

4.The Additional Assistant Elementary Educational Officer,
Kalakadu Range, Kalakadu Post,
Tirunelveli District.

+1 CC to Mr.M.SARAVANAKUMAR, Advocate (SR-648[F] dated 08/01/2020)

ORDER MADE IN
W.P(MD)No.4554 of 2015
07.01.2020

VB(24.01.2020) 4P 6C