



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **08.01.2020**
CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.25864 of 2019

and

W.M.P. (MD) Nos.22375, 22376 & 22379 of 2019

Usha Margaret

... Petitioner

Vs.

- 1.The State through
The Secretary to Government,
Department of School Education,
Fort St.George,
Chennai.
- 2.The Director of School Education,
College Road,
Chennai - 600 006.
- 3.The District Educational Officer,
Valliyur,
Tirunelveli District.
- 4.The Block Educational Officer,
Valliyur,
Tirunelveli District.
- 5.The Manager,
TDTA Primary and Middle School,
Palayamkottai.
- 6.The Correspondent,
TDTA Primary and Middle School,
Perpilankulam - 627 131.

... 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 entire records connected with the impugned order passed by the third respondent in Na.Ka.No.2483/A2/2017 dated 26-10-2017 and quash the same and directing the respondent Nos.3 and 4 to disburse the salary to the petitioner based upon the approval of appointment order passed by the third respondent in his proceedings in Ni.Mu.No.2483/A2/2017 dated 28-08-2017.



For Petitioner : Mr.K.K.Kannan
For R1 to R4 : Mr.A.Thiyagarajan
Government Advocate

ORDER

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This Writ Petition is filed to quash the order passed by the third respondent in Na.Ka.No.2483/A2/2017 dated 26.10.2017 and to direct the respondent Nos.3 and 4 to disburse the salary to the petitioner based upon the approval of appointment order passed by the third respondent in his proceedings in Ni.Mu.No.2483/A2/2017 dated 28.08.2017.

2.The petitioner herein was appointed to the post of B.T. Teacher (Tamil) in the sixth respondent school on 01.02.2016. The petitioner's appointment came to be approved with effect from 06.04.2017 by the third respondent herein through his proceedings dated 28.08.2017. Subsequently, on 26.10.2017, the impugned order passed by the third respondent, withdrawing the earlier approval order dated 28.08.2017, predominantly on two grounds stating that there were surplus post available within the corporate body of the respondents 5 and 6 and that the writ petition in W.P.(MD) No.4896 of 2017 filed by the school management with regard to staff fixation, is pending.

3.It is now brought to the notice of this Court that insofar as the writ petition in W.P.(MD) No.4896 is concerned, it is seen that pursuant to the order impugned, the writ petition came to be allowed on 01.11.2017 by this Court and a copy of the same has also been produced. Likewise, insofar as the reasons cited by the respondents that there were surplus posts available in the corporate body of the respondents 5 and 6 are concerned, it is stated by the learned counsel for the petitioner that there were no surplus staff under the respondents 5 and 6. Even otherwise, the staff fixation order came to be subsequently passed on 20.02.2019, which also evidences that there were no surplus teachers.

4.In view of these developments, the reasons cited by the respondents in the impugned order itself cannot be sustained. Since the reasons cited by the respondents with regard to the pendency of the writ petition came to be negatived only after the impugned order was passed and the staff fixation report was also passed after the impugned order, it would be appropriate to direct the respondents herein to reconsider the issue in the light of the observations made in this order.

5.Under these circumstances, the impugned order passed by the third respondent in Na.Ka.No.2483/A2/2017 dated 26.10.2017 is hereby set aside and the matter is remanded back to the third respondent for fresh consideration. The third respondent shall take into account the observations made in this order and the petitioner is



also at liberty to make a fresh representation to the third respondent by enclosing a copy of the order passed in W.P.(MD) No.4896 of 2017, as well as the staff fixation order for the year 2018-2019 and on receipt of such representation, the third respondent shall consider the same and pass appropriate orders as expeditiously as possible preferably within a period of two weeks from the date of receipt of such representation.

6.The Writ Petition stands allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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To

- 1.The Secretary to Government,
Department of School Education,
Fort St.George,
Chennai.
- 2.The Director of School Education,
College Road,
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- 3.The District Educational Officer,
Valliyur,
Tirunelveli District.
- 4.The Block Educational Officer,
Valliyur,
Tirunelveli District.

+1 CC to SPL.GP (SR-980[F] dated 09/01/2020)

+1 CC to Mr.K.K.KANNAN, Advocate (SR-1018[F] dated 09/01/2020)

W.P. (MD) No.25864 of 2019
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MK (28.01.2020) 3P 7C