



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.08.2021

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.A.NO.394 OF 2021
AND
C.M.P.NO.1564 OF 2021

1. The Director of School Education,
DPI Compound, College Road,
Chennai -6.
2. The Chief Educational Officer,
Tiruvannamalai District.
3. The District Educational Officer,
Tiruvannamalai District. ... Appellant/Respondent

vs

1. E.Rathinamala,
W/o.T.Ben Robert,
B.T.Assistant (History),
Danish Mission Higher Secondary School,
Tiruvannamalai District.
2. The Correspondent,
Danish Mission Higher Secondary School,
Tiruvannamalai District.
3. The Central Manager & Chairman,
Education Board,
D.M.Elementary Higher Elementary School,
Parikkal, Cuddalore District. ... Respondents

Prayer: Writ Appeal filed under clause 15 of the Letters Patent Act against the final order dated 12.02.2020, made in W.P. No.1417 of 2020.

Prayer in W.P.No.1417 of 2020:

Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, Calling for the records of the Third Respondent pertaining the



Proceedings NA.KA.NO 4015/A2/2018 dated 10.12.2018 quash the same and cosequently directing the Respondents to approve the appointment of the Petitioner in the post of B.T.ASSISTANT (History) from the date of initial appointment dated 01.03.2017 with all consequential and attendant benefits including payment of salary from the date of appoitment along with Interest, within a time frame to be fixed by this Court.

For Appellants : Mr.R.Neelakandan
State Government Counsel
For R1 : Mr.T.Dharani
For R2 & R3 : No Appearance

JUDGMENT

(delivered by Pushpa Sathyanarayana,J.,)

This is an intra-Court appeal filed against the order passed by the learned Single Judge in W.P. No.1417 of 2020 dated 12.02.2020.

2.The second respondent had sent a proposal to the third appellant to approve the appointment of the first appellant in the post of BT Assistant (History), with effect from 01.03.2017, in the vacancy caused due to the death of one Stanley Anandaraj. The said proposal was returned stating that already there are 6 posts of BT Assistant as surplus in the year 2016-2017 and 11 posts of BT Assistant as surplus in the year 2017-2018 and refused to approve the appointment of the first respondent.

3.Aggrieved by the same, the first respondent filed a writ petition in W.P.No.1417 of 2020, wherein, the learned Single Judge had quashed the impugned proceedings and directed the second respondent-school to re-submit the proposal to the third appellant and on receipt of the said proposal, the third appellant was directed to process the file and grant approval, if the writ petitioner fulfils all the other requirements.

4.The learned Single Judge issued such direction based on the judgment of this Court in the case of "Thiruvavaduthurai Adheenam Middle School vs. The Director of Elementary Education and others", and observed that the officials cannot rely upon G.O.Ms.No.165 dated 17.09.2019, which has already been suspended by a Division Bench of this Court. It is also seen that, in the case on hand, it was a sanctioned post which was filled up subsequent to the death of a teacher. Since without advertting to all these facts, the impugned order was passed, the above direction was given by the learned Single Judge.



5.The direction was only to consider the proposal sent by the second respondent and approve the appointment, if everything is in order. The appellants cannot have any grievance before consideration of the proposal in the light of the observation made by the learned Single Judge. Therefore, we do not find any merits in the present appeal.

6.In view of the above, the Writ Appeal is dismissed with a direction to the third appellant to consider the proposal, which has been already submitted by the second respondent - School, within a period of four weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To:

1. The Correspondent,
Danish Mission Higher Secondary School,
Tiruvannamalai District.
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Education Board,
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NMI (CO)
PM(02/09/2021)