



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2021

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THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.1578 of 2014

D.Saraladevi

...Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Secretary,
Education Department,
Secretariate, Chennai - 9.

2.The Director of Elementary Education,
College Road, Chennai - 6.

3.The District Elementary Education Officer,
Virudhunagar.

4.The Assistant Elementary Education Officer,
Aruppukottai.

5.The Secretary,
Siddi Vinayagar Hindu Primary School,
A.Kallupattu, Aruppukottai.

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the second respondent to approve the appointment of the petitioner as Secondary Grade Headmaster w.e.f. 17.10.1997 in the fifth respondent school with all consequential benefits in the light of the order passed in W.P.No.16383 of 2000 dated 03.11.2008 confirmed by the order in W.A.No.1408 of 2010 dated 08.12.2011 on the basis of the representation dated 29.06.2013.

For Petitioner : Mr.S.N.Ravichandran

For Respondent
Nos.1 to 4 : Mr.C.Selvaraj
Government Advocate (Civil)



O R D E R

The present Writ Petition has been filed for the issuance of a Writ of Mandamus, to direct the second respondent to approve the appointment of the petitioner as Secondary Grade Headmaster w.e.f. 17.10.1997 in the fifth respondent school with all consequential benefits in the light of the order passed in W.P.No.16383 of 2000 dated 03.11.2008 confirmed by the order in W.A.No.1408 of 2010 dated 08.12.2011 on the basis of the representation dated 29.06.2013.

2. The petitioner was appointed as Headmistress of Primary School by the fifth respondent School on 17.10.1997. The School has forwarded the proposal for approval of appointment of the petitioner to the third respondent. Though it was returned by Proceedings O.Mu.No.3913/E1/2000, dated 07.05.2001, for want of five years teaching experience, later it was conditionally approved by proceedings M.M.No.5601/A3/00, dated 28.07.2005 by the third respondent. Since it was conditionally approved, the petitioner has approached this Court for a Writ of Mandamus directing the second respondent to approve the appointment as Secondary Grade Headmistress with effect from 17.10.1997 with all consequential benefits in the light of the order passed by this Court in W.A.No.1408 of 2010, dated 08.12.2011.

3. The Division Bench of this Court, in W.A.No.442 of 2007, has categorically held that five years of experience for appointment as Primary School Headmaster was relaxed by the Government in G.O.Ms.No.97, dated 05.07.2001. Therefore, Primary School Headmaster, who does not have five years of experience will not be entitled to the pay scale of Headmaster, but, shall receive the salary of Secondary Grade Teacher till completion of five years. Thereafter, she is entitled to higher salary of Headmistress.

4. The learned counsel appearing for the petitioner has produced various Government Orders, wherein, the approval was granted on condition that incumbents appointed as Headmasters shall continue and receive the salary of Secondary Grade Teacher till they complete five years period. He has cited the Government Orders in G.O.Ms.(3D) No.91, School Education Department, dated 17.09.2009, G.O.Ms.(3D) No.82, School Education Department, dated 29.06.2010, G.O.(3D).No.117, School Education Department, 11.09.2012, wherein appointment of candidates as Headmasters has been approved on condition that they shall receive the salary of Secondary Grade Teacher till completion of five years of experience and thereafter, their appointment will be approved as Primary School Headmaster.



5. Considering all the Government Orders and the order of the Division Bench, the learned single Judge in the previous order has considered the request of the petitioner and directed the respondents to approve the appointment. However, on appeal filed by the Government, the order was set aside in the absence of the counsel for the petitioner. The Division Bench remitted the matter back to the learned single Judge to pass orders after considering materials placed before the Division Bench. The Division Bench has also observed that positive direction was issued to the Department without affording any opportunity to the respondent and therefore, an opportunity should be given to the respondent to canvass the point of the Government and thereafter, the Writ Petition shall be disposed of.

6. I have considered all the materials and order of the third respondent in approving the appointment of the petitioner conditionally on 28.07.2005. However, the authority has not considered the various Government as well as Judicial orders of this Court and the procedure adopted in case of similarly placed persons vide the Government Orders cited supra.

7. Considering the facts and circumstances of the case, a direction is issued to the second respondent / Director of Elementary Education, Chennai, to consider the approval of the petitioner to the post of Primary School Headmaster in the light of the order passed in W.A.No.442 of 2007, dated 20.03.2007, W.A.No.1408 of 2010 dated 08.12.2011 and other Government Orders and pass appropriate orders within a period of six (6) weeks from the date of receipt of a copy of this order.

In the result, the Writ Petition is disposed of with the above direction. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary,
Education Department,
Secretariate, Chennai - 9.

2.The Director of Elementary Education,
College Road, Chennai - 6.



3.The District Elementary Education Officer,
Virudhunagar.

4.The Assistant Elementary Education Officer,
Aruppukottai.

+1cc to Mr.S.N.Ravichandran, Advocate, S.R.No.29990

+1cc to the Government Pleader, S.R.No.30379

W.P.No.1578 of 2014

SVI (CO)

RVM(28/07/2021)