



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19801 of 2021

&

W.M.P.No.21079 of 2021

(Through Video Conferencing)

T.Stanly Backiraj

...Petitioner

Vs

1.The Chief Educational Officer,
Thiruvallur,
Thiruvallur District.

2. The District Educational Officer,
Thiruvallur,
Thiruvallur District.

3. The Block Educational Officer II
Poondi Union,
Thiruvallur District.

4. The Headmaster,
T.E.L.C Primary School,
Kaivendur - 631 203,
Thiruvallur Taluk and District

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings of the 3rd respondent in A Thi Mu.No.115/A2/2021 dated 05.07.2021 and quash the same and consequently, and to 3rd respondent to approve the appointment of the petitioner as secondary grade teacher with effect from date of initial appointment on 01.08.2017 and give all the consequential benefits by considering the submitted proposal by the 4th respondent on 05.05.2021 and with all consequential benefits and in accordance with law within a time to be stipulated.

For Petitioner : Mrs.P.Ganesan

For Respondents: Mr.L.S.M. Hasan Fizal
Government Advocate



ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

2.The learned counsel for the petitioner submits that the issue is no longer res integra and is covered by a decision of the Hon'ble Division Bench of this Court in W.A (MD).No.76 of 2019 wherein a batch of writ petitions were disposed by holding that G.O.Ms.No.165 School Education (P.E.2(1) department, dated 17.09.2019 issue pursuant to an interim order of the Court was no longer valid. Operative portion of the said order reads as under:

95.(o) In view of the aforesaid, the G.O.Ms.No.165, School Education [Tho.Ka.2(1) Department, dated 17.09.2019 is hereby declared to be inoperative.

8.In view of the subsequent interim order, dated 20.09.2019 and judgment dated 31.03.2021, made in W.A.(MD).No.76 of 2019 et., batch the reason given by the fourth respondent for rejecting the approval in the impugned order by placing reliance upon the interim order of the Division Bench of this Court, dated 09.04.2019, is erroneous. Hence, the impugned order passed by the fourth respondent, dated 22.02.2021, is liable to be set aside and is hereby set aside. The respondents 1 to 4 are directed to approve the appointment of the petitioner as B.T Assistant (Maths) and pass orders within a period of two weeks from the date of receipt of a copy of this order and sanction and disburse all the monetary benefits to the petitioner.

3.The petitioner was selected and appointed on 01.08.2017 by the Administrator in the 4th respondent/School as a Secondary Grade Assistant in view of the vacancy caused due to the retirement of one C.Esther Jothi who was working as a Secondary Grade Assistant in the 4th respondent/School.



3A.The petitioner was also directed to join the 4th respondent/School and joined the school on 01.08.2017. After the petitioner joined the school, the 4th respondent had also sent a representation for approval of the appointment of the petitioner on 05.05.2021 with the 3rd respondent.

4.The 3rd respondent has passed the impugned order dated 05.07.2021. In the aforesaid order, the 3rd respondent has stated that the proposal for appointing the petitioner was being rejected in the light of the fact that the 4th respondent/School was under direct payment in terms of proceeding in Na.Ka.No.2086/AA4/2016 dated 02.03.2017 of the DEEO, Thiruvallur and if only said direct payment order is revoked, appointment of the petitioner can be approved in terms of G.O.Ms.No.165, School Education (P.E2(1) department dated 17.09.2019. It is further stated that there was a surplus in the cadre of Secondary Grade Assistant in the union and since the 4th respondent/School is corporate schools, and therefore, no fresh appointment can be made.

5.Considering the above, the impugned order passed by the 3rd respondent is quashed. Liberty is given to the petitioner to approach the 4th respondent/School to send a fresh proposal to the 2nd respondent to approve the appointment of the petitioner as a Secondary Grade School Teacher. If such a proposal is sent by the Administrator within a period of four weeks from the date of receipt of this order, the 2nd respondent shall consider the same and pass appropriate orders on merits and in accordance with law.

6.This writ petition stands disposed of. No Costs.Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

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To

1.The Chief Educational Officer,
Thiruvallur,
Thiruvallur District.

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Thiruvallur,
Thiruvallur District.



3. The Block Educational Officer II
Poondi Union,
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4. The Headmaster,
T.E.L.C Primary School,
Kaivendur - 631 203,
Thiruvallur Taluk and District.

+1 CC to Mr.P. Ganesan, Advocate sr 47970.

+1 CC to The Government Pleader sr 47864.

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and
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BS (CO)
SP(09/11/2021)