



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.322 of 2021

and

W.M.P (MD) .No.246 of 2021

WEB COPY

Antony Savarimuthu

... Petitioner

Vs.

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

2.The District Educational Officer,
Sankarankoil, Tenkasi District.

3.The Correspondent,
R.C.High School,
Devipattinam, Sivagiri Taluk,
Tenkasi District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to impugned order of the 1st respondent by his proceedings in Oo.Mu.No.2134/Aa.1/2020 dated 28.11.2020 and quash the same as illegal and consequently, direct the 1st respondent to approve the appointment of the petitioner as B.T.Assistant (Maths) in the 3rd respondent school with effect from the date of appointment ie., from 05.06.2014, further direct him to pay all the monetary benefits payable to the petitioner from 05.06.2014 to 13.11.2014.

For Petitioner	:	Mr.Venkatesh.D
For R1 & R2	:	Mr.A.Thiyagarajan Government Advocate

O R D E R

This writ petition is filed challenging the impugned order passed by the first respondent, by his proceedings in Oo.Mu.No.2134/Aa.1/2020, dated 28.11.2020 and quash the same and consequently, direct the first respondent to approve the appointment of the petitioner as B.T.Assistant (Maths) in the 3rd respondent school with effect from the date of appointment ie., from 05.06.2014 and further direct him to pay all the monetary benefits payable to the petitioner from 05.06.2014 to 13.11.2014.

2.By consent of both parties, this writ petition is taken up for final disposal.



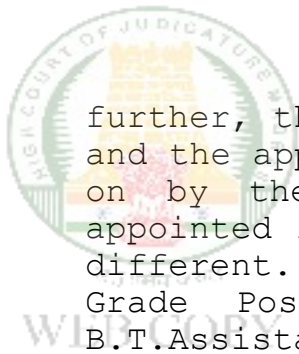
3.The case of the petitioner is that he was appointed as B.T Assistant(Maths) in the third respondent school, by order dated 03.06.2014. The third respondent school is a Minority Institution and is getting Government Aided for the sanctioned posts. The petitioner was appointed in the existing vacancy of Secondary Grade Teacher viz., Devaraj, in view of his promotion as B.T.Assistant (Tamil) in the very same school. In the meantime, the Chief Educational Officer, Tirunelveli, by his proceedings, dated 14.11.2014 has accorded permission to upgrade two existing posts of Secondary Grade Teachers as B.T.Assistant (Social Science) and B.T.Assistant (Maths). In the upgrade post, the petitioner was appointed as B.T.Assistant (Maths). After his appointment, the third respondent school has sent a written proposal to the District Educational Officer, Tenkasi, for approving the petitioner's post of B.T.Assistant (Maths) with effect from 05.06.2014. However, the petitioner's post was approved with effect from 14.11.2014. The Educational Authorities have no power, in view of G.O.Ms.No.144, dated 04.07.2008, wherein in para No.3(ii) it has been clearly stated to that effect. Challenging the same, the present writ petition is filed.

4.The learned counsel appearing for the petitioner submitted that this Court has held that the approval is to be granted only from the date of initial appointment and not from the date of subsequent order giving permission for conversion. Admittedly, the petitioner was appointed on 03.06.2014 and later, the said post was upgraded as B.T.Assistant, but, however, the said upgradation was not granted to the petitioner. Hence, this Court may issue an appropriate direction to the respondents to grant approval from the date of initial appointment, in terms of the decision of this Court in W.A(MD)Nos.828 of 2014 and 129 to 132 of 2015.

5.The learned Government Advocate appearing for the respondents would submit that admittedly, the petitioner was appointed in the upgraded post of B.T.Assistant(Maths) on 14.11.2014. However, the petitioner was appointed in the existing vacancy of Secondary Grade Teacher, in view of the promotion of one Devaraj as B.T.Assistant (Tamil). For the existing post no approval can be granted, and the decision relied upon by the petitioner, is not applicable to the facts of this case.

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

7.Admittedly, two existing posts are vacant in view of the promotion of the existing staff. It is also not in dispute that two existing posts were upgraded as B.T.Assistant (Social Science) and B.T.Assistant(Maths) on 14.11.2014. Now, the petitioner was appointed in the upgraded post and his post was approved and admittedly, there is no post approved in view of upgradation. Hence, the relief sought for in this writ petition cannot be granted and



further, the petitioner was appointed in the Secondary Grade Teacher and the approval was given only from 14.11.2014. The decision relied on by the petitioner, is applicable only when the person is appointed in a particular post. In the present case, it is squarely different. The petitioner was initially appointed in the Secondary Grade Post, however, later, the said post was upgraded as B.T.Assistant(Maths) and accordingly, the upgradation was granted. Hence, the approval cannot be granted earlier, when the post is not available.

8.In view of the above, the prayer sought for in the writ petition cannot be granted and hence, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

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

2.The District Educational Officer,
Sankarankoil, Tenkasi District.

+1 CC to M/s.GP (SR-1117[F] dated 19/01/2021)

W.P. (MD) No.322 of 2021
11.01.2021

(SJ) CO

AP(10/02/2021) 3P 4C