



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P(MD)No.736 of 2020
and
W.M.P(MD)Nos.542 to 544 of 2021

G.R.Nirmala Jasmine

... Petitioner

Vs

1.The Director of School Education,
DPI Complex,
College Road,
Chennai - 600 002.

2.The Chief Education Officer,
Kanyakumari District,
Nagercoil.

3.The District Education Officer,
Thucklay,
Kanyakumari District.

4.The Correspondent,
Christucoil LMS Higher Secondary School,
Palliyadi - 629 169,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Certiorarified Mandamus calling for the records pertaining to the orders passed by the third respondent dated 20.11.2019, quash the same and consequently direct the third and fourth respondents to re-employ the petitioner from 01.02.2020 to 31.05.2020.

For Petitioner	: Mr.H.Elango
For Respondents	: Mr.P.T.Thiraviam,
1 to 3	Government Advocate



ORDER

This writ petition is filed challenging the impugned order dated 20.11.2019, wherein the petitioner's request for re-employment till the end of the academic year has been rejected.

2.The learned Counsel for the petitioner submits that the petitioner was appointed as P.G.Assistant [Tamil] on 03.08.2006 in the fourth respondent school. While so, the petitioner's superannuation fell on 31.01.2020. Therefore the petitioner submitted application seeking extension of her services till the end of the academic year, i.e., 31.05.2020. However, her request was rejected by the third respondent vide proceedings dated 20.11.2019. Therefore, challenging the same the petitioner is before this Court.

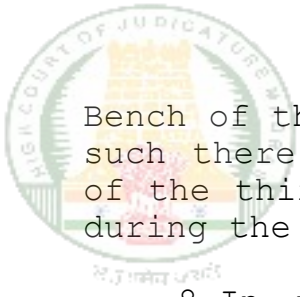
3.The learned Government Advocate appearing for the respondents submitted that the petitioner was due to retire on 31.01.2020 and her request for extension of service till 31.05.2020 was rejected by the third respondent vide his proceedings dated 20.11.2019. He further submits that the request of the petitioner has been rejected in view of the Government Order in G.O.Ms.No.261 School Education (pa.Ka.5(2) Department dated 20.12.2018 that whenever there is surplus teacher available in the district, there should not be any extension of service beyond the date of superannuation. He has also placed reliance on the decision of a Hon'ble Division Bench of this Court in W.P.(MD)No.13421 of 2016 dated 18.01.2018.

4.Heard the learned Counsel on either side and perused the materials placed on record.

5.It is seen that the petitioner was appointed as P.G.Assistant and her date of superannuation is 31.01.2020. A perusal of the impugned proceedings shows that there was surplus Tamil Teacher as on date. The Government Order in G.O.Ms.No.261 School Education (pa.Ka.5(2) Department dated 20.12.2018 states that there cannot be any extension of service, where there are surplus teachers available.

6.A Division Bench of this Court in W.P.(MD)No.13421 of 2016 dated 18.01.2018 held that the purpose of granting re-employment to the teachers, who retire in the middle of the academic year is to benefit the students and though certain Government Orders issued in this connection, the same cannot perversely applied and when there is surplus teacher, the question of extension of service does not arise at all.

7.It is clear that when there is surplus teacher available in a particular school, extension of service cannot be granted in view of G.O.Ms.No.261 School Education (pa.Ka.5(2) Department dated 20.12.2018 and in view of the decision of the Hon'ble Division



Bench of this Court in W.P.(MD)No.13421 of 2016 dated 18.01.2018. As such there is no reason to interfere with the impugned proceedings of the third respondent, since there was surplus Tamil Teacher post during the relevant period.

8. In the light of the above discussion, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dsk

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Director of School Education,
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+1 CC to M/s.SPL GP (SR-35192[F] dated 19/11/2021)

W.P(MD)No.736 of 2020

17.11.2021

MGJ(03.12.2021) 3P 5C